

8-27-2024
4:00 PM

8-30-2024

CIVIL CITATION

STATE OF TEXAS
COUNTY OF HAYS

§
§
§

CAUSE NO. 24-0753-C
COUNTY COURT AT LAW #1

La Ventana Ranch Owners Association, Inc., Plaintiff
VS.
Jakob Skelton; Stephanie Chang, Defendant

TO DEFENDANT(S):

Jakob Skelton
914 Ranchers Club Lane
Driftwood, TX 78640

YOU HAVE BEEN SUED. You may employ an Attorney. If you or your Attorney do not file a written answer with the Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at [TexasLawHelp.org](https://www.texaslawhelp.org).

Attached hereto is a copy of the Plaintiffs Original Petition and Application for Temporary and Permanent Injunction which was filed by the PLAINTIFF in the above styled and numbered cause on 08/22/2024, in the County Court at Law #1 of Hays County, 712 S. Stagecoach Trail, San Marcos, Texas 78666.

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT at my office in San Marcos, Texas, on this the 23rd day of August, 2024.

ELAINE H. CÁRDENAS, CLERK OF THE COUNTY
COURT, HAYS COUNTY, TEXAS



Plaintiff's Attorney:
Adam Pugh, Cagle Pugh Ltd LLP
4301 Westbank Dr Bldg A Suite 150
Austin, TX 78746, 737-261-0600

BY /s/ Deborah Cancel, DEPUTY
712 S. Stagecoach Trl, Ste. 2008
San Marcos TX 78666

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock, __M. and executed at _____ within the County of _____, Texas on the ____ day of _____, 20__ at _____ o'clock __M. by delivering to the within named _____. In person a true copy of this citation together with the accompanying pleading, having first attached a copy of such citation to such copy of the pleading and endorsed on such copy a citation the date of delivery.

Fee for Service: \$ _____

Constable Precinct ____ Hays County, Texas

By _____
Deputy

24-0753-C
NO. _____

LA VENTANA RANCH OWNERS	§	IN THE COUNTY COURT
ASSOCIATION, INC.,	§	
Plaintiff,	§	
	§	
v.	§	AT LAW NO. _____
	§	
JAKOB SKELTON AND STEPHANIE	§	
CHANG A/K/A STEPHANIE SKELTON,	§	
Defendants.	§	HAYS COUNTY, TEXAS

**PLAINTIFF’S ORIGINAL PETITION AND
APPLICATION FOR TEMPORARY AND PERMANENT INJUNCTION**

TO THE HONORABLE JUDGE:

COMES NOW Plaintiff, La Ventana Ranch Owners Association, Inc., and files this its *Original Petition and Application for Temporary and Permanent Injunction*, and in support thereof, Plaintiff would respectfully show the Court as follows:

I. DISCOVERY CONTROL PLAN

1. Plaintiff intends to conduct discovery in this suit under Level 2 of Texas Rule of Civil Procedure 190.3.

II. PARTIES

2. Plaintiff, La Ventana Ranch Owners Association, Inc. (the “*Association*”) is a Texas non-profit corporation with its principal place of business in Hays County, Texas.

3. Defendant Jakob Skelton is an individual residing in Hays County, Texas and may be served with process at his residence located at 914 Ranchers Club Lane, Driftwood, Texas 78640, or any other place he may be found.

4. Defendant Stephanie Chang a/k/a Stephanie Skelton is an individual residing in Hays County, Texas and may be served with process at her residence located at 914 Ranchers Club Lane, Driftwood, Texas 78640, or any other place she may be found.

III. JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter because this suit involves an interest in real property located in Hays County.

6. Venue is proper in Hays County with respect to Plaintiff's claims pursuant to Tex. Civ. Prac. & Rem. Code sections 15.002(a). All of the events or omissions giving rise to Plaintiff's claims occurred in Hays County, Texas.

7. **RULE 47 STATEMENT.** Plaintiff seeks monetary relief less than \$100,000, as well as non-monetary relief.

IV. FACTS

8. Defendants are the owners of that certain real property legally described as LOT 501, OF LA VENTANA, PHASE 6, A SUBDIVISION IN HAYS COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN VOLUME 11, PAGES 292-294, OF THE PLAT RECORDS OF HAYS COUNTY, TEXAS; said property is commonly known as 914 Ranchers Club Lane, Driftwood, Texas 78640 (hereinafter referred to as the "*Property*") by virtue of that certain *General Warranty Deed with Vendor's Lien in Favor of Third Party*, dated September 6, 0222, and recorded at Document No. 22042547 in the Official Public Records of Hays County, Texas.

9. The Property is located entirely within La Ventana Subdivision, a subdivision located in Hays County, Texas, according to the map or plat thereof recorded in Volume 371, Page 109, of the Plat Records of Hays County, Texas (the "*Subdivision*").

10. The Subdivision, and the lots located therein, are governed by and subject to that certain *Third Amended Declaration of Covenants, Conditions and Restrictions for La Ventana*, recorded at Document No. 02026515 in the Official Public Records of Hays County, Texas, as

amended from time to time (the "***Declaration***"). A copy of the Third Amended Declaration is attached hereto as **Exhibit A** and incorporated by reference.

11. The Declaration establishes Plaintiff as a property owners' association for the Subdivision and vests it with the power, duty, and responsibility of administering and enforcing the restrictive covenants contained within the Declaration.

12. The Declaration prohibits owners from keeping, maintaining, or caring for poultry or fowl on the Property. **Declaration**, Section 3.28. The Declaration further provides that the Association, through its Board of Directors, is entitled to enforce the Declaration. **Declaration**, Section 3.4.

13. On or about June 20, 2024, Plaintiff identified the presence of fowl, namely approximately 17 ducks, on the Property. Pursuant to the notice sent to Defendants Jakob Skelton and Stephanie Chang a/k/a Stephanie Skelton by the Association, Defendants were to remove the fowl on the Property so that no more than six ducks were on the Property, since the breeding and board of ducks is not allowed within the Subdivision. A copy of this notice is attached hereto as **Exhibit B** and incorporated by reference.

14. On or about June 24, 2024, Plaintiff received correspondence from Defendants requesting a reasonable accommodation to allow an exception or change to the prohibition against keeping numerous fowl on the Property.

15. On or about July 1, 2024, Plaintiff, through the undersigned counsel, sent a letter to Defendants acknowledging the request and in turn requesting additional information regarding the non-observable disability and whether the numerous ducks provide therapeutic emotional support with respect to the specific disability, and requesting certain other information to allow the Association to properly ascertain if a reasonable accommodation was required to be made by

the Fair Housing Act, or any other applicable law. A copy of this letter is attached hereto as Exhibit C and incorporated by reference.

16. On or about June 25, 2024, Plaintiff received correspondence from Cherrisa R. McConnell, on behalf of Defendant Stephanie Chang a/k/a Stephanie Skelton, stating that Defendants' numerous ducks were necessary without sufficient information to determine if the request was reasonable. Defendants have been unable to show why an animal actually permitted in the community would not be a viable solution, why so many ducks are necessary, or why ONLY ducks are capable of treating PTSD. A copy of the letter is attached hereto as Exhibit D and incorporated by reference.

17. All conditions precedent to the filing of this suit have occurred or have been met.

V. CAUSES OF ACTION

BREACH OF RESTRICTIVE COVENANT

18. Defendants had record notice of the Declaration at the time Defendants purchased the Property, as the Property was subject to the Declaration at the time of purchase by Defendants and continues to be.

19. Defendants' continued housing of fowl on the Property constitutes a material and ongoing breach of the Declaration, for which the Association and other property owners within the Subdivision have and will continue to suffer irreparable harm. Specifically, Defendants are in violation of Article III of the Declaration, as indicated herein above.

20. Despite having been notified of their violation of the Declaration, Defendants have refused to comply with the Association's requests that they remove the fowl from the Property or provide adequate supporting documentation as to the need for such fowl and in such quantity on the Property.

21. The Association has no adequate remedy at law because damages alone are not sufficient to provide for the enforcement of the Declaration, of which the Association and its Board are duty-bound to enforce. Accordingly, Plaintiff seeks a permanent injunction enjoining this violation, damages in an amount equal to the cost of mitigating its damages, along with its reasonable and necessary attorney fees pursuant to Section 5.006 of the Texas Property Code.

VI. REQUEST FOR TEMPORARY AND PERMANENT INJUNCTIVE RELIEF

22. The Association and other property owners in the Subdivision will suffer impairment of their rights and irreparable injury of a continuing nature including, without limitation, impairment of aesthetic value, loss of the right to quiet enjoyment of their respective property, and reduction in monetary value if Defendants are not enjoined from violating the Declaration's provisions cited above and from interfering with the Association's legal right to enforce the Declaration and its rights to manage Lots within the Subdivision. Accordingly, the Association requests that Defendants be permanently enjoined from housing poultry on the Property. The Association has no adequate remedy at law because this harm is not reasonably capable of measure. Further, Plaintiff requests a temporary injunction prohibiting Defendants, and each of them, from housing poultry on the Property.

VII. REQUEST FOR STATUTORY DAMAGES

23. The Association requests that this Court award damages in the amount of \$200 per day of violation of the Declaration, under Section 202.004 of the Texas Property Code from at least March 2024 through the entry of judgment.

VIII. ATTORNEY'S FEES

24. Section 5.006 of the Texas Property Code provides that a prevailing party who asserts an action based on a breach of a restrictive covenant shall be awarded its reasonable attorney's fees.

25. Accordingly, the Association respectfully requests that the Court award it all reasonable and necessary attorneys' fees incurred by it in the enforcement of the Declaration and prosecution of this lawsuit.

IX. APPLICATION FOR TEMPORARY INJUNCTION

26. The Association realleges and incorporates herein by reference its allegations in the foregoing paragraphs above.

27. It is probable the Association will prevail on the merits because Defendants' housing fowl is not just an express violation of the Declaration, it is a clear violation of the law.

28. The Association and other property owners in the Subdivision have and, if an injunction is not issued, will continue to suffer impairment of their rights and irreparable injury of a continuing nature including, without limitation, impairment of aesthetic value of their respective properties, a loss of ability to enforce such violations in the future, as well as the peaceful enjoyment of their properties, if Defendants, and each of them, are not enjoined from violating the Declaration.

29. The Association has no adequate remedy at law for the injuries just described. The injuries and losses are continuing. The Property and rights involved are unique and irreplaceable, so that it will be impossible to accurately measure, in monetary terms, the damages caused by Defendants' conduct.

30. Plaintiff requests and is entitled to a temporary injunction restraining Defendants, and each of them, from housing poultry on the Property. This requested relief is authorized pursuant to Section 65.011(1) of the Texas Civil Practice and Remedies Code.

31. For the reasons stated in this pleading, Plaintiff requests that, after trial on the merits, this Court grant Plaintiff the requested relief permanently enjoining Defendants from housing poultry on the Property.

32. Plaintiff is willing to post reasonable bond and requests that the court fix a reasonable bond for the Temporary Injunction.

X. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendants be cited to appear and answer herein, and that the Court issue a Temporary Injunction to preserve the status quo pending trial. Following an appropriate hearing on this matter, Plaintiff requests that the Court enter a judgment awarding Plaintiff: 1) permanent injunctive relief; 2) statutory and actual damages; 3) reasonable and necessary attorneys' fees; 4) prejudgment and post-judgment interests; 5) court costs; and 6) all other relief the court deems appropriate.

Respectfully submitted,

CAGLE PUGH

By: /s/ Adam Pugh
Adam Pugh
Texas Bar No. 24044341
Marla Jones
Texas Bar No. 24046174
4301 Westbank Dr., Suite A150
Austin, Texas 78746
Telephone: (737) 261-0600
Fax: (737) 261-0637
adam.pugh@caglepugh.com
marla.jones@caglepugh.com
ATTORNEYS FOR PLAINTIFF

NO. _____

LA VENTANA RANCH OWNERS
ASSOCIATION, INC.,
Plaintiff,

v.

JAKOB SKELTON AND STEPHANIE
CHANG A/K/A STEPHANIE SKELTON,
Defendants.

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IN THE COUNTY COURT

AT LAW NO. _____

HAYS COUNTY, TEXAS

PLAINTIFF'S REQUIRED INITIAL DISCLOSURES

REQUIRED DISCLOSURE NO. 1: The correct names of the parties to the lawsuit.

RESPONSE: To the Plaintiff's best knowledge, all other parties are named correctly.

REQUIRED DISCLOSURE NO. 2: The name, address, and telephone number of any potential parties.

RESPONSE:

None at this time.

REQUIRED DISCLOSURE NO. 3: The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial).

RESPONSE: Please refer to Plaintiff's Original Petition regarding Breach of Restrictive Covenant.

REQUIRED DISCLOSURE NO. 4: The amount and any method of calculating economic damages.

RESPONSE:

Plaintiff seeks statutory damages and recovery of its attorney's fees billed at an hourly rate.

REQUIRED DISCLOSURE NO. 5: The name, address, and telephone number of persons having knowledge of relevant facts, and a brief statement of each identified person's connection with the case.

RESPONSE:

La Ventana Ranch Owners Association, Inc.
c/o CAGLE PUGH

4301 Westbank Drive, Bldg. A, Ste. 150
Austin, TX 78746
(737) 261-0600
Plaintiff

Jakob Skelton
914 Ranchers Club Lane
Driftwood, Texas 78619
Defendant

Stephanie Chang a/k/a Stephanie Skelton
914 Ranchers Club Lane
Driftwood, Texas 78619
Defendant

REQUIRED DISCLOSURE NO. 6: A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the responding party has in its possession, custody, or control, and may use to support its claims or defenses, unless the use would be solely for impeachment.

RESPONSE: Please refer to exhibits attached to Plaintiff's Original Petition and Application for Temporary and Permanent Injunction.

REQUIRED DISCLOSURE NO. 7: Any indemnity and insuring agreements described in Rule 192.3(f).

RESPONSE: N/A

REQUIRED DISCLOSURE NO. 8: Any settlement agreements described in Rule 192.3(g).

RESPONSE: None at this time.

REQUIRED DISCLOSURE NO. 9: Any witness statements described in Rule 192.3(h).

RESPONSE: None at this time.

REQUIRED DISCLOSURE NO. 10: In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills that are reasonably related to the injuries or damages asserted or, in lieu thereof, an authorization permitting the disclosure of such medical records and bills.

RESPONSE: N/A

REQUIRED DISCLOSURE NO. 11: In a suit alleging physical or mental injury and damages from the occurrence that is the subject of the case, all medical records and bills obtained by the responding party by virtue of an authorization furnished by the requesting party.

RESPONSE: N/A

REQUIRED DISCLOSURE NO. 12: The name, address, and telephone number of any person who may be designated as a responsible third party.

RESPONSE: N/A

REQUIRED DISCLOSURE NO. 13: Any testifying expert disclosures required by Rule 194.3 and described in Rule 195.5.

RESPONSE:

Adam Pugh
Marla Jones
CAGLE PUGH
4301 Westbank Drive, Bldg. A, Ste. 150
Austin, TX 78746
(737) 261-0600
adam.pugh@caglepugh.com
marla.jones@caglepugh.com

Mr. Pugh or Ms. Jones will testify to the reasonable and necessity of attorney's fees.

REQUIRED DISCLOSURE NO. 14: The name and, if not previously provided, the address, and telephone number of each witness—separately identifying those the party expects to present and those it may call if the need arises.

RESPONSE: See response to Required Disclosure No. 5 above.

REQUIRED DISCLOSURE NO. 15: An identification of each document or other exhibits, including summaries of other evidence—separately identifying those items the party expects to offer and those it may offer if the need arises.

RESPONSE: Plaintiff will supplement.

Plaintiff reserves the right to supplement all responses in accordance with the Texas Rules of Civil Procedure.

EXHIBIT

A

**THIRD AMENDED DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
FOR
LA VENTANA**

THE STATE OF TEXAS

§

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF HAYS

§

THAT WHEREAS, LA VENTANA DRIFTWOOD, L.P., a Texas limited partnership, (the "Declarant"), is the owner of certain real property located in Hays County, Texas (the "Property"), as defined in Article I, Section 1.44 below, which Declarant proposes to develop and subdivide for residential purposes;

WHEREAS, that certain Second Amended Declaration of Covenants, Conditions and Restrictions For La Ventana dated April 11, 2000 was recorded as Document Number 00007993 with the Official Public Records of Hays County, Texas at Volume 1653, Pages 282 - 341B. Pursuant to Section 10.3 of the Second Amended Declaration, Declarant hereby amends the Original Declaration, as amended from time to time, to incorporate revisions deemed necessary or desirable for the Subdivision.

WHEREAS, that certain Supplemental Declaration to the Declaration of Covenants, Conditions and Restrictions for La Ventana dated January 8, 2001 was recorded as Document Number 01008670 with the Official Public Records of Hays County, Texas at Volume 1757, Pages 800-802, which added La Ventana West, as defined therein, to the Subdivision and imposed all of the terms and provisions of the Declaration to La Ventana West;

WHEREAS, the purpose of this Declaration is to preserve so far as possible the natural beauty of the Property; to avoid harsh contrasts between structures and landscape; to protect against the erection of poorly designed or disproportional structures or use of unsuitable materials; to encourage and secure the erection of attractive improvements which are harmonious with their sites; and in general, to enhance the environmental quality and economic value of the Property; and

WHEREAS, La Ventana Ranch Owners Association, Inc., has been incorporated under the laws of the State of Texas as a nonprofit corporation, and has been granted powers of administering and enforcing said covenants, restrictions, charges, and liens and disbursing the assessments and charges created in this Declaration; and

WHEREAS, Declarant desires to convey the Property subject to certain protective covenants, conditions, restrictions, liens, and charges set forth below; and

WHEREAS, Declarant desires to create and carry out a uniform plan for the improvement, development and sale of the Property for the benefit of the present and future Owners of the Property, and in connection therewith, Declarant hereby adopts and establishes the following declarations, reservations, restrictions, covenants, conditions, liens, charges and assessments to apply uniformly to the use, improvement, occupancy and conveyance of all of the Property, including the roads, avenues, streets, alleys and waterways therein.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

That it is hereby declared (i) that all of the Property shall be held, sold, conveyed and occupied subject to the following covenants, restrictions, covenants, and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the Property and shall be binding on all parties having any right, title, or interest in or to the property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof; and (ii) that each contract or deed which may hereafter be executed with regard to the Property or any portion, thereof shall conclusively be held to have been executed, delivered, and accepted subject to the following covenants, conditions, and restrictions regardless of whether or not the same are set out or referred to in said contract or deed.

ARTICLE I
DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified:

1.1 **Architectural Committee.** "Architectural Committee" (hereinafter sometimes called "Committee") shall mean the committee created pursuant to this Declaration to review and approve Plans and Specifications for the construction of Improvements upon the Property and having the authority and responsibility delegated thereto by this Declaration.

1.2 **Architectural Committee Rules.** "Architectural Committee Rules" shall mean the rules and regulations adopted by the Architectural Committee, as the same may be amended from time to time.

1.3 **Articles.** "Articles" shall mean the Articles of Incorporation of La Ventana Ranch Owners Association, Inc., which have been filed in the office of the Secretary of State of the State of Texas, and as amended from time to time.

1.4 **Assessment(s).** "Assessment(s)" shall mean assessment(s) levied by the Association and includes both regular and special assessment(s) as provided under the terms and provisions of this Declaration.

1.5 **Association.** "Association" shall mean La Ventana Ranch Owners Association, Inc., (sometimes referred to as "ROA"), as created and empowered under and in accordance with this Declaration.

1.6 **Association Property.** "Association Property" shall mean all real or personal property now or hereafter owned by or leased to the Association.

1.7 **Beneficiary.** "Beneficiary" shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust.

1.8 **Board.** "Board" shall mean the Board of Directors of the Association.

1.9 **Builder.** "Builder" shall mean any professional homebuilder engaged in the business of constructing new homes for sale in the Subdivision. A Builder is also an Owner as defined herein.

1.10 **Building.** "Building" shall mean a structure, including a residence, having a roof supported by columns or walls.

1.11 **Bylaws.** "Bylaws" shall mean the Bylaws of the Association which may be adopted by the Board, as the Bylaws may from time to time be amended, and which is attached hereto as Exhibit "C".

1.12 **Commercial Lot 1.** "Commercial Lot 1" shall mean that parcel of land within the Subdivision designated on the Plat as Lot "C-1", comprising approximately 16.0 acres.

1.13 **Common Area.** "Common Area" (also known as "Greenbelt") shall mean (a) all portions of the Subdivision designated as common area on the Plat, (b) any and all sites, tracts or parcels of land within the Property (including Ponds and the Corral) designated by Declarant as common areas and conveyed to the Association for the common benefit of the Owners, (c) the Private Roads and dedicated rights of way, (d) any drainage facilities (such as culverts), which require maintenance, repair or management by the Owners or the Association, and (e) all improvements, equipment, and other facilities located on any of the above described properties which are owned, operated, maintained, and/or repaired by the Association.

1.14 **Compost Area.** "Compost Area" shall mean that specific area designated by Declarant in the Subdivision as the Compost Area.

1.15 **Corral.** "Corral" shall mean that specified portion of the Common Area surrounded by Lots E1, E2, E3, E4, E5, E6, E7, E8, E9, E10, E11 and E12, which is fenced and owned by the Association for the common use and enjoyment of the Owners and is subject to the rules and regulations which apply to the use and enjoyment of the Corral.

1.16 **Creek Bed.** "Creek Bed" shall mean any portion of the Property where water would collect and flow in times of rainfall.

1.17 **Declarant.** "Declarant" shall mean La Ventana Driftwood, L.P. a Texas Limited Partnership, its parent, subsidiaries and affiliates, and their duly authorized representatives, or their respective successors, or assigns; provided, however, that any assignment of the rights of La Ventana Driftwood, L.P., a Texas Limited Partnership, by Declarant must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of Declarant shall not be sufficient to constitute an assignment of the rights of Declarant hereunder.

1.18 **Declaration.** "Declaration" shall mean this instrument, as the instrument may from time to time be amended or supplemented.

1.19 **Development.** "Development" shall mean any construction undertaken by Declarant in the Subdivision.

1.20 **Equestrian Activity.** "Equestrian Activity" shall mean activity of any kind involving horses, including but not limited to riding, training, boarding, feeding, cleaning, caring for, jumping, breaking, stabling, grazing, roping, etc.

1.21 **Equestrian Lot(s).** "Equestrian Lot(s)" shall mean Lots E1, E2, E3, E4, E5, E6, E7, E8, E9, E10, E11, E12, vacate and re-plot Lots 25 and 27 to 26R, vacate and re-plot of Lots 28 and 29 to 28R, as well as any other Lots so designated by Declarant, whether now or in the future, in the Subdivision.

1.22 **Flat Creek.** "Flat Creek" shall mean that portion of Flat Creek which runs through the southeast portion of the Subdivision.

1.23 **Front Fields.** "Front Fields" shall mean that portion (approximately 109 acres) of the Common Area located on the northern most portion of the Subdivision.

1.24 **Governmental Authority.** "Governmental Authority" shall mean the United States of America, the State of Texas, Hays County, and any other political or governmental subdivision in which the Property is located, in whole or part, and any other political subdivision, agency or instrumentality exercising jurisdiction over the Property.

1.25 **Governmental Requirements.** "Governmental Requirements" shall mean all laws, statutes, codes, ordinances, rules and regulations of any government authority applicable to the Property and/or the use, enjoyment, operation, maintenance or ownership of the Property.

1.26 **Guest House.** "Guest House" shall mean any Improvement located on a Lot which is smaller than the Main House and accommodates habitation for people on a temporary basis. Guest House shall also include any Improvements located on a Lot which serves as a studio or office.

1.27 **Improvement(s).** "Improvement(s)", as used interchangeably in this Agreement, shall include buildings, dwellings, roads and other structures and all appurtenances thereto of every type and kind, including but not limited to outbuildings, storage sheds, patios, tennis courts, swimming pools, garages, storage buildings, playsets, tree houses, swing sets, fences, screening walls, retaining walls, stairs, steps, porches, mailboxes, walkways, driveways, decks, landscaping, poles, signs, exterior air conditioning, water softener reservoirs, pumps, wells, tanks, pipes, lines, meters, antennas, aerials, satellite dishes, wind generators, solar collectors, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television and other utilities.

1.28 **La Ventana Restrictions/Restriction(s).** "La Ventana Restriction(s)" or "Restriction(s)" shall mean this Declaration and the deed restriction(s) contained herein, as the same may be amended from time to time, together with the La Ventana Rules, any Committee Rules and the Articles and Bylaws of the Association from time to time in effect, as the same may be amended from time to time.

1.29 **La Ventana Rule(s).** "La Ventana Rule(s)" shall mean the rule(s) and regulations adopted by the Board, including, but not limited to, the Articles, Bylaws, Ranchers Club Rules, Pool and Spa Rules, Childhouse Rules, Exercise Room Rules, Corral Rules, Stable Rules and Common Area Rules as the same may be amended from time to time.

1.30 **Lot(s).** "Lot(s)" (sometimes referred to as "Homestead(s)") shall mean any parcel or parcels of land within the Property shown as a subdivided lot or homestead on a recorded plat of any portion of the Property, together with all Improvements located thereon.

1.31 **Main House.** "Main House" shall mean any Improvement located on a Lot which constitutes and serves as the primary single family residence.

1.32 **Manager.** "Manager" shall mean the person(s), firm or corporation, if any, employed by the Association for management responsibilities pursuant to this Declaration and/or delegated by the Board any duty, power or function of the Association.

1.33 **Member.** "Member" shall mean any person or entity holding membership rights in the Association and shall have the same meaning as "Owner" defined herein.

1.34 **Mortgage.** "Mortgage" shall mean any mortgage or deed of trust covering any portion of a Lot given to secure the payment of a debt.

1.35 **Mortgagee.** "Mortgagee" or "Mortgagees" shall mean the holder or holders of any Mortgage or Mortgages.

1.36 **Owner.** "Owner" shall mean a person or entity including Declarant, holding a fee simple interest in any Lot or Undeveloped Lot, but shall not mean a Mortgagee until and unless any such Mortgagee acquires and owns a fee simple interest in a Lot.

1.37 **Ranchers Club.** "Ranchers Club" shall mean that portion of the Common Area located on the southeast portion of the Subdivision and designated as Ranchers Club by Declarant where the Clubhouse, community pool, tennis center, golf range and other amenities are located.

1.38 **Perimeter Path.** "Perimeter Path" shall mean that portion (approximately 25-foot strip/path) of the Common Area which is designated as a horse/bike/bike trail by Declarant and which substantially borders the perimeter of the Subdivision, not including La Ventura West.

1.39 **Person.** "Person" shall mean any individual, corporation, partnership (general or limited), joint venture, trust (or trustee), executor, administrator, guardian, association, estate or other entity having the legal right to hold title to real property.

1.40 **Plans and Specifications.** "Plans and Specifications" shall mean any and all documents designed to guide or control the construction, erection, removal or material alteration of any Improvement on any Lot, including but not limited to those indicating location, size, shape, configuration, materials, site plans, conservation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications on all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such Improvement.

1.41 **Plat.** "Plat(s)" shall mean the map(s) or plat(s) recorded in the Plat Records of Hays County, Texas, evidencing and providing for the subdivision of the Property known as La Ventura and La Ventura, a subdivision formed in accordance with applicable Governmental Requirements relating to the subdivision of property in Hays County, Texas.

1.42 **Fond(s).** "Fond(s)" shall mean any tank, pond, reservoir, or body of water located on the Common Area.

1.43 **Private Road(s).** "Private Road(s)" shall mean the private roads located on the Common Area and providing access to the Lots and ingress to and egress from the Subdivision, as more fully shown and provided for on the Plat.

1.44 **Property.** "Property" shall mean and refer to all real property located in the Subdivision subject to this Declaration, according to, and as set forth on, the Plat and more fully described by metes and bounds on Exhibit "A" attached hereto, and for all purposes made a part of, this Declaration, including the real property added to the Subdivision known as La Ventura West and any other real property added to the Subdivision which may be added to the Subdivision in the future by Declarant.

1.45 **Street Side Right(s)-of-Way.** "Street Side Right(s)-of-Way" shall mean that part of the right-of-way situated between the edge of pavement of the Private Road and a Lot line.

1.46 **Subdivision.** "Subdivision" shall mean La Ventura, the subdivision formed by Declarant pursuant to this Declaration, as shown in the Real Property Records of Hays County, Texas and any

property added to the Subdivision in accordance with the terms herein, including, but not necessarily limited to La Ventura West.

1.47 Undeveloped Lot(s). "Undeveloped Lot(s)" shall mean any parcel(s) of land in the Subdivision owned by Declarant which is not a Lot.

ARTICLE II DEVELOPMENT OF THE PROPERTY

2.1 Development by Declarant. Declarant or its transferees may divide or subdivide the Property, designate any portion of the Property to be a separate Area, develop all or any portion of the Property and, at Declarant's option, dedicate parts of the Property as Common Areas and/or Greenbelt or for other purposes for the benefit of the developed areas, in accordance with the Declarant's master plan for the Property. It is contemplated that the Property will be developed pursuant to a master conceptual plan, which may, from time to time be amended or modified, in the sole discretion of Declarant.

2.2 Addition of Land. Declarant, and other persons with Declarant's written consent, may develop certain real property now owned or hereafter acquired by Declarant. Declarant may, at any time and from time to time, add additional lands to the Property and upon the filing of a Notice of Addition of Land as hereinafter described, this Declaration and the covenants, conditions, restrictions and obligations set forth herein, shall apply to the added lands and the rights, privileges, duties and liabilities of the Persons subject to this Declaration shall be the same with respect to the added land as with respect to the lands originally covered by this Declaration. Permission from the Association and/or the Owners is not required for the addition of land. In order to add lands to the Property hereunder, Declarant shall be required only to record in the Real Property Records of Hays County, Texas, a notice of Addition of Land (which notice may be contained within any Supplemental Declaration affecting such land) containing the following provisions:

- (a) A reference to this Declaration, which reference shall state the book and page numbers of the Hays County Real Property Records wherein this Declaration is recorded;
- (b) A statement that all of the provisions of this Declaration shall apply to the added land;
- (c) A legal description of the added land; and
- (d) A legal description of all Common Area to be owned by the Association within the added land.

2.3 Withdrawal of Land. Declarant, and others with Declarant's written consent, may, at any time and from time to time, reduce or withdraw areas from the Property, and upon such withdrawal, this Declaration and the covenants, conditions, restrictions, obligations and liens set forth herein shall no longer apply to those lands withdrawn. The procedure for withdrawal of land shall be substantially the same as set forth above in Section 2.2 for the addition of land except that the instrument shall be designated as a Notice of Withdrawal of Land and the provisions of such Notice shall be modified as necessary to provide for the withdrawal of land rather than the addition of land.

ARTICLE III
RESTRICTIONS

All of the Property (except for Commercial Lot 1) shall be owned, encumbered, mortgaged, leased, used, occupied, enjoyed, sold and conveyed subject to the following terms, conditions, covenants, and restrictions in this Article III:

3.1 Antennas. Exterior radio or television antennas, or aerial or satellite dish receivers, or other devices designed to receive telecommunication signals, including, but not limited to, radio, television or microwave signals which are intended for cable television, network television reception, internet, cellular telephones or entertainment or business purposes may be erected or maintained only with the prior written approval of the Architectural Committee.

3.2 Main House/Guest House. No more than one (1) Main House and one (1) Guest House shall be constructed or placed on any Lot. The restrictions and limitations in this Section 3.2 shall not prohibit, restrict or limit the number of other improvements on a Lot which are appurtenant to any dwelling on a Lot or which are placed on a Lot for any other lawful and permitted purpose, including, without limitation, greenhouses, outbuildings (so long as constructed to match the exterior of the Main House), patios, tennis courts, swimming pools, garages, cabanas, playhouses, tree houses, swing sets, fences, screening walls, retaining walls, porches, driveways, decks, air conditioning equipment, water softening fixtures or equipment, exterior lighting fixtures and equipment, and motors. Unless the prior written approval of the Architectural Committee is obtained, no improvement constructed or placed on any Lot shall exceed the height of the Main House on such Lot.

3.3 Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the improvements located upon any Lot of the Common Area without the prior written approval of the Board. For purposes of this paragraph, the construction, maintenance and use of a swimming pool upon any Lot which complies with the provisions of Section 3.31 hereof and is ancillary to and connected with the construction and use of a single-family dwelling upon such Lot is deemed to be an acceptable and permitted use under the terms of this paragraph.

3.4 Compliance with and Violation of Provisions of Restrictions. Each Owner shall comply with the provisions of La Ventana Restrictions, as the same may be amended from time to time. Failure to comply with any of the La Ventana Restrictions shall constitute a violation of this Declaration and shall give rise to the following rights and remedies:

(a) A violation by an Owner, his or her family, guests, lessees or licensees, of the La Ventana Restrictions shall authorize the Board to avail itself of any one or more of the following remedies:

(1) The imposition of a "special charge" not to exceed One Hundred Dollars (\$100.00) per violation, to the extent permitted by applicable law;

(2) The suspension of such Owner's rights to use any Association Property for a period not to exceed thirty (30) days per violation;

(3) The right to enter the Property and Improvements, after forty-eight (48) hours notice of the violation, and cure or abate such violation and to charge the expenses thereof, if any, to such Owner; or

(4) The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including but not limited to, attorney's fees and court costs.

Each day a violation continues shall be deemed a separate violation.

(b) The voting rights of an Owner who fails to pay any Assessment authorized or permitted by this Declaration, or a special charge authorized in this Section 3.4, shall automatically be suspended and shall remain suspended until any such Assessment or special charge, including penalty, interest and attorney's fees added to such Assessment as authorized in Article VII hereof, is paid in full.

3.5 **Subdividing.** No Lot shall be further divided or subdivided nor may any easements or other interest herein less than the whole conveyed by the Owner thereof; provided, however, that if the Declarant is the Owner thereof, Declarant may further divide and subdivide any Lot and convey any easement or other interest less than the whole, all without the approval of the Architectural Committee.

3.6 **Merger.** Upon a merger or consolidation of the Association with another association, its properties, rights, and obligations may, by operation of law, be transferred to the surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may, by operation of law, be added to the properties, rights and obligations of the Association, and the surviving or consolidated association shall possess such properties, rights and obligations in the same manner as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restriction established by this Declaration within the Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall affect any revocation, change or addition to the covenants established by this Declaration pertaining to the Property except as hereinafter provided. No merger or consolidation of the Association shall be effective without the written consent of Declarant.

3.7 **Signs.** Declarant and any other person or entity engaged in the construction and/or sale of a residence within the Subdivision shall be permitted to place, during the period of development, construction, sale and resale of houses in the Subdivision, one (1) "For Sale/Builder/Bro." sign of less than four (4) square feet in size. Subcontractors' signs are not allowed. Notwithstanding the foregoing, the appearance and location of all signs must be acceptable to the Architectural Committee. Security related signs are permitted. Plaques and/or monuments naming the Lot are allowed. Declarant and the Association may erect signs for any purpose, including marketing, on the Property. The foregoing specifically prohibits Lot Re-Sale signs unless approved by the Committee.

3.8 **Rubbish and Debris.** No rubbish or debris of any kind (including weeds, brush or material of any nature deemed to be rubbish or debris by the Committee) shall be placed or permitted to accumulate upon the Property and no odors shall be permitted to arise therefrom so as to render the Property, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other Property or to its occupants. No horse manure shall be allowed to accumulate on the Equestrian Lots. Horse manure shall be disposed of regularly and kept at a minimum at all times. The Architectural Control Committee shall determine what constitutes rubbish, debris or odors and what conditions render any portion of the Property unsanitary, unsightly, offensive or detrimental to any other Property or to its occupants; and the decision of the Architectural Control Committee shall be final and binding on the parties. Refuse, garbage and trash shall be kept at all times in covered containers, and such containers shall be kept within enclosed structures or appropriately screened from view except for designated trash collection days. In the event that the Owner or permitted occupants of any Lot shall fail to keep, or cause to be kept such Lot or Improvements thereon free from rubbish or debris of any kind, and such failure or refusal shall continue for fifteen (15) days after delivery of written notice thereof, then the Association may, but shall not be obligated to, enter upon the

Property and remove or correct the same at the expense of the Owner of such Lot and such entry shall not be deemed to be a trespass. Owners may dispose of yard rubbish, clippings, and other organic debris at the Compost Area. Compost may be used by Declarant, the Association and Owners. No burning of any kind is allowed on any Lot except that Declarant is allowed to burn during any Development Activity and the Association is allowed to burn at the Compost Area.

3.9 **Garbage Containers.** The Association may contract with a licensed trash removal service to serve the garbage collection needs of the Property, with each Owner paying for the service to his or her Lot.

3.10 **Nuisance.** No noise, light pollution or other nuisance shall be permitted to exist or operate upon any of the Lots so as to be offensive or detrimental to any other of the Lots or to its occupants (other than security devices used exclusively for security purposes).

3.11 **Construction of Improvements.** No Improvements shall hereafter be constructed upon any portion of the Property without the prior written approval of the Plans and Specifications for the Improvement(s) by the Architectural Committee. The positioning of all Improvements upon Lots within the Property is also hereby expressly made subject to Architectural Committee review and approval. The Architectural Committee may, but shall not be required to, prevent or allow the construction of a proposed Improvement based upon the effect it will have upon the view from any other Lot. The Architectural Committee may consider the effect the Improvement will have on the Subdivision as a whole, it being expressly understood that neither Declarant, the Board or the Architectural Committee, in its sole judgement, nor the members thereof, shall be liable to any Owner in monetary damages or otherwise due to the construction of any Improvement within the Property or the creating thereby of an obstruction to the view from an Owner's Lot or Lots.

3.12 **Repair of Buildings.** All Improvements upon any of the Lots shall at all times be kept in good condition and repair and adequately painted or otherwise maintained by the Owner thereof. The opinion of the Architectural Control Committee as to condition shall be final. The Owner shall repair any Improvement if required to do so by the Architectural Committee.

3.13 **Alteration or Removal of Improvements.** The construction or material alteration of any Improvement on any Lot other than normal maintenance, which in any way materially alters the exterior appearance of any Improvement, and/or the removal of any material portion of any Improvement on any Lot shall be performed only with the prior written approval of the Architectural Committee.

3.14 **Roofing Materials.** No reflective, white or bright colored roofing materials shall be permitted on any Improvement. The minimum standards for roof shingles shall be dimensional, 300 pounds per square, 25 year shingles or better. Non-distorting metal or tile roofs, including drain gutters, shall be permitted. The Committee shall have the sole discretion and right to approve or reject in writing all roofing materials to be used on any Improvement and a failure or refusal to approve is a rejection.

3.15 **Liability of Owners for Damages to Common Area and Facilities.** No Owner shall in any way alter, modify, add to or otherwise perform any work upon the Common Area, including, but not limited to, trees and landscaping, without the prior written approval of the Board, except that each Owner shall be responsible for upkeep and maintenance of their Street Side Right-of-Way adjacent to their Lot. Each Owner shall be liable to the Association for any and all damages to (i) the Common Area, or (ii) any Improvements constructed on any Lot, the maintenance of which has been assumed by the Association, which damage is caused by the neglect, misuse or negligence of such Owner any tenant or other occupant of such Owner's Lot, or any guest or invitee of such Owner. The full cost of all repairs of such damage shall be an Assessment against such Owner's Lot, secured by a lien against such Owner's Lot and collectible in the same manner as provided in Article VI hereof, including but not limited to foreclosure of such lien.

3.16 Underground Utility Lines. No utility lines, including, but not limited to, wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be created, placed or maintained any where in or upon any portion of the Property unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on buildings or other improvements as approved in writing by the Committee; provided, however, that no provision hereof shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or other improvements which have been previously approved in writing by the Committee. Notwithstanding any provision herein to the contrary, Declarant and the Association are hereby exempt from compliance with this Section 3.16.

3.17 Drains. There shall be no interference with the established drainage patterns over any of the Property, except by Declarant, unless adequate provision is made for proper drainage and approved by the Architectural Committee. All drainage structures under private driveways shall be constructed out of concrete or rock and have a not drainage opening area of sufficient size to permit the free flow of water without backwater. Metal drainage structures or culverts under driveways are not permitted. All drainage structures shall be subject to the approval of the Architectural Committee. Owners are responsible for the construction, upkeep and repair of drainage structures or culverts under their driveways, regardless if such structure is located in a Street Side Right-of-Way.

3.18 Creek and Tributary Obstructions. No obstructions of any type, including, but not limited to, fences, dams, and concrete walkways, shall be placed in, on, or across any Creek Bed adjoining or running through any Lot in the Subdivision, except by Declarant or Association.

3.19 Filling, Cutting and Slope Control. The Architectural Committee shall carefully review all proposed improvements which will be placed on Lots with slopes exceeding twenty (20%) percent, and all filling and cutting of the terrain on such Lots shall be kept at a minimum. The Architectural Committee may require "pier and beam" type foundations for the improvements on such Lots in lieu of standard "slab on grade" foundations if, in its sole discretion, the Architectural Committee so elects.

3.20 Solar Equipment. All usage of solar equipment must be approved in writing by the Architectural Committee. Solar collectors shall not be permitted to be installed upon any improvements on any Lot in a fashion that would cause a glare to adjoining Lots or detract from the design of the structure.

3.21 Hazardous Activities. No activities shall be conducted or allowed to exist on any Lots and no improvements shall be constructed on any Lot that are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, activities that are expressly prohibited include (1) any activities which may be offensive or hazardous by reason of odor, fumes, dust, smoke, noise, vibration or pollution, or which are hazardous by reason of excessive danger, fire or explosion, or (2) the discharge or leakage of any type of hazardous or toxic chemical or material, provided, however, materials and activities that are customarily used for residential and agricultural purposes, including construction shall be allowed on the Lots. Additionally, no fireworks or fireworks shall be discharged upon the Property, no open fires shall be lighted or permitted except in a contained barbecue unit (while attended and in use for cooking purposes), within a masonry well-designed interior fireplace, or such campfires or picnic fires in the Common Areas designed for such use by Declarant or by the Association.

3.22 Temporary Structures. No tent, shack, mobile home, trailer, or other temporary building, improvement, or structure shall be placed upon the Property, without the prior written approval of the Architectural Committee; provided, however, that temporary structures necessary (i) for the storage of tools and equipment and (ii) for office space for architects, builders, and foremen during actual construction or a residence and temporary structures necessary for providing office space for builders and their

approved on a showing of good cause by Owner. This Restriction does not apply to Declarant, the Association, nor any existing fences on the Property.

3.27 Restrictions Against Unlicensed Vehicles. No unlicensed vehicles, including, but not limited to, 3-wheelers, 4-wheelers, or go-karts, shall be allowed to be driven upon the Property, including the Private Roads. Golf carts with tall caution flags are permitted. No motorized vehicles, licensed or unlicensed, shall be allowed to be driven or parked on any Undeveloped Lot(s) or the Common Area except paved roads or designated parking area(s). Declarant, its contractors, maintenance vehicles, and emergency vehicles are exempt from this Section.

3.28 Animals-Household Pets. No animals, including pigs, poultry, fowl, wild animals, cattle, sheep, goats or any other type of animal not considered to be a domestic household pet within the ordinary meaning and interpretation of such words may be kept, maintained or cared for on the Property, except for the animals, including horses, subject to Section 3.54, longhorn cattle, llamas and other livestock and wildlife that Declarant or the Association determines to own and raise and/or manage on the Common Area. No animal shall be allowed to make an unreasonable amount of noise or to become a nuisance, through noise or otherwise, and no domestic pets will be allowed on the Property other than on the Lot of its Owner unless confined to a leash. No animal shall be allowed to run at large, and all animals shall be kept within enclosed areas which must be clean, sanitary and reasonably free of refuse, insects and waste at all times. Such enclosed area shall be constructed in accordance with plans approved by the Architectural Committee, shall be reasonably designed and constructed to adequately contain such animals in accordance with the provisions hereof, and shall be screened so as not to be visible from any other portion of the Property. In no event shall Pit bulls or other vicious or dangerous animals be allowed on the Property. The Front Fields are the "leash free" zone for pets belonging Owners so long as the pet Owner is present to supervise their pet(s) and the pet(s) are trained and obedient. Equestrian Lots are allowed the full time boarding of no more than two (2) horses each.

3.29 Landscaping. It is the intent of this Declaration to recognize, utilize and supplement the existing landscape and visual resources by retaining the natural character of the site with its rolling terrain and clusters of trees. It is the further intent to structure a viable introduced landscape, ensuring consistent quality and providing for visual harmony through color and textural variety. No fences, wall, hedge, shrub or tree planting which obstructs sight lines at elevations between three (3) and six (6) feet above the surface of any street or roadway shall be planted or permitted to remain on any corner Lot within the triangular area formed by the curb lines of such intersection streets and a line connecting such curb lines at points twenty-five (25) feet from their intersection, or, in the case of a rounded corner, from the intersection of the curb lines as extended. The same sight line limitations shall apply on any Lot within ten (10) feet of the intersection of a street curb line and the edge of a driveway or alley. No trees shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at a height of more than six (6) feet above ground level. Anything herein to the contrary notwithstanding, the Committee may allow a ten (10) foot setback from a side street if the Committee, in its sole discretion, so elects. No tree (other than mountain juniper, commonly known as cedar) having a trunk with a diameter of six (6) inches or larger shall be removed from any Lot without the consent of the Committee.

The tree disease caused by the fungus *Ceratocystis fagacearum*, commonly known as Oak Wilt, is present on the Property and the Texas Hill County. Both red oaks and live oaks are susceptible to Oak Wilt and the disease has been diagnosed in more than sixty (60) Texas counties. The fungus spreads through the common root system of oaks. Existing trees shall be pruned and treated for disease and insects in keeping with good arboricultural practices as deemed by the Committee. Owners must cooperate with the Association to control any tree disease present on Owner's Lot. In the event a tree larger than a ten (10) inch caliper, but smaller than sixty (60) inches in circumference, is removed or destroyed, the Owner of the Lot from which such tree was removed or destroyed will replace that tree with at least three (3) hardwood trees of a minimum

three (3) inch caliper or seven (7) inch circumference. This Restriction does not apply to Declarant or the Association.

3.30 Maintenance of Lawns, Plantings and Improvements and Street Side Right-of-Way.

(a) In the event the Owner of any Lot shall fail to maintain such Lot, that portion of the Street Side Right-of-Way along the Lot, and the Improvements situated thereon in a neat and orderly manner, the Association, acting on its own or through the Architectural Committee, its agents and employees, shall have the right to enter upon said Lot and to repair, maintain, and restore the Lot and exterior of any and all buildings and other Improvements erected thereon, all at the expense of the Owner.

(b) The Owner of a Lot which includes a Creek Bed shall maintain the Creek Bed and banks free of weeds and debris and, if the Owner shall fail to do so, the Association shall have said area maintained at the expense of the Owner. Anything to the contrary contained in this paragraph notwithstanding, all Creek Bed maintenance performed by an Owner, or by the Association, shall be performed in accordance with all pertinent and specifically applicable regulations and the ordinance of the appropriate governmental entity.

(c) All plants, shrubs, trees, grass, and landscaping on a Lot shall be maintained in a trimmed and neat condition at all times. Declarant, the Association and the Architectural Committee shall have the right, at any reasonable time, to enter upon any Lot to replace, maintain and cultivate shrubs, trees, grass or other plantings located thereon, and to charge the cost thereof to the Owner of the Lot as provided herein.

(d) The Association shall have the sole authority to make a determination as to the acceptability of the maintenance and appearance of any Lot, and the Association shall have the absolute discretion and authority to determine the necessity for required maintenance of Lots within the Subdivision. No unsightly Lots shall be permitted at anytime.

3.31 Swimming Pools. Moveable aboveground swimming pools are strictly prohibited, excluding small "kiddy pools". All swimming pools must be in a fenced enclosure surrounding the swimming pool or access to that portion of the Lot upon which the swimming pool is located must be restricted with lockable access by fencing of adequate height. Such fence is to be approved by the Architectural Control Committee.

3.32 Main House Site. Unless requirement is expressly waived in writing by the Committee, any Main House constructed on a Lot must have an enclosed living space of not less than two thousand eight hundred (2,800) square feet, exclusive of open and closed porches, decks, terraces, patios, balconies, driveways and garages. This requirement will only be waived by the Committee in circumstances where the Property or other characteristics of a Lot do not reasonably enable compliance with this requirement. This shall not apply to any residence or Building existing prior to the date of the original Declaration. The Committee may grant variances on this requirement on only those Lots which were constructed prior to the date of filing this Declaration, but in no event shall the minimum enclosed living space requirement be less than 2,250 square feet.

3.33 Guest House Site. Unless requirement is expressly waived in writing by the Committee, any Guest House constructed on a Lot must have an enclosed living space of not less than four hundred (400) square feet, exclusive of open and closed porches, decks, terraces, patios, balconies, driveways and garages. This requirement will only be waived by the Committee in circumstances where the Property or other characteristics of a Lot do not reasonably enable compliance with this requirement. This shall not apply to any residence or Building existing prior to the date of the original Declaration.

representatives to market residences to prospective purchasers may be maintained with the prior approval of the Architectural Committee, such approval to include the nature, size, duration, and location of each structure.

3.23 Mining and Drilling. No portion of any Lot shall be used for the purpose of mining, quarrying, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons, minerals of any kind, water, rocks, stones, sand, gravel, aggregate, or earth, or for any mineral development or production activities at any time. This restriction shall not apply to the removal or deposit of rocks, stones, sand, gravel, aggregate, or earth as necessary in connection with the construction of any Subdivision improvements such as streets, sidewalks, curbs, gutters, drainage systems or utilities or as may otherwise be required in connection with the construction of any improvements approved by the Architectural Committee. Declarant, and/or any water utility company owned or controlled by Declarant, shall have the exclusive right to drill a water well or wells on any Common Area or sanitary easement of record within the Subdivision (including the placement of surface equipment) to any depth and capture any quantity of water it deems necessary for the operation of its business. This right is assignable by the foregoing parties and the Association shall acknowledge any such assignment when presented. Lot number 50 shall be entitled to use the existing water well located thereon for its own landscaping/irrigation purposes only. Commercial Lot 1 shall be entitled to use the existing water well located thereon for any purpose or additional water wells for any legal use may be drilled.

3.24 Unsightly Articles/Vehicles. The intent of this section is to prohibit the view of unsightly articles and unsightly vehicles (as deemed such by the Committee) located on any Lot. No article deemed to be unsightly by the Architectural Committee shall be permitted to remain on any Lot so as to be visible from adjoining Property or public or private thoroughfares. Without limiting the generality of the foregoing, graders, trucks other than pickups, boats, tractors, campers, wagons, buses, motorcycles, motor scooters, and garden maintenance equipment shall be kept at all times, except when in use, in enclosed structures or completely screened from view and no repair or maintenance shall be done on any of the foregoing, or on any automobile (other than minor emergency repairs), except in enclosed garages or other structures. Each single-family residential structure constructed within the Property shall have garage space sufficient to house at least two (2) vehicles. Lot owners shall not keep more than two (2) automobiles in such manner as to be visible from any other portion of the Property for any period in excess of seventy-two (72) hours. No automobiles or other vehicles may be parked after dark or overnight on any roadway within the Property. Service areas, storage areas, compost piles and facilities for hanging, drying or airing clothing or household fabrics shall be appropriately screened from any view, and no lumber, grass, plant waste, shrub or tree clippings, metals, bulk materials or scrap or refuse trash shall be kept, stored or allowed to accumulate on any portion of the Property except within enclosed structures or appropriately screened from view. Equestrian Lot Owners may park one (1) horse trailer next to each stable provided such parking space is covered in accordance with this Declaration.

3.25 Mobile Homes, Travel Trailers, Cattle Trailers and Recreational Vehicles. No mobile homes shall be parked or placed on any Lot at any time, and no travel trailers, cattle trailers, or recreational vehicles shall be parked on or near any Lot so as to be visible from adjoining Property or public or private thoroughfares for more than forty-eight (48) hours.

3.26 Fences. No fence, of any sort, shall be constructed on any Lot without the Architectural Control Committee's prior written approval. In order to obtain such approval, complete plans and specifications for any proposed fence must be submitted to and approved in writing by the Architectural Control Committee. The Architectural Committee may, in its discretion, prohibit the construction of any fence, or specify the materials of which any fence must be constructed, or require that any other proposed fence be screened by vegetation or otherwise so as not to be visible from other portions of the Property. In any case, the following types of fences are not permitted: chain link, barbed wire, game fences, and fences over seven (7) feet high. Wooden Privacy Fences are not favored by the Committee and shall only be

3.34 Masonry Construction Without the prior written consent of the Architectural Committee, no structure or improvement (if applicable) may be constructed of more than ten percent (10%) exterior wood, with the remaining portion being of masonry construction. Brick, natural stone and stucco shall be considered to be masonry for purposes of this Section. In computing these percentages 1) all gables shall be excluded from the total area of exterior walls; 2) all windows and door openings shall be excluded from the total area of the exterior walls; 3) all underpinings shall be excluded from the total area of the exterior walls; and 4) stone and masonry used on fireplaces, chimneys and walls of an attached garage may be included in the computation as stone, masonry or stucco is used. The decision of the Architectural Committee as to the percentage of exterior wood used, or shown on a construction plan, shall be final and binding on all parties. Hardy plank or hardy board shall not be considered a masonry product.

3.35 New Materials Only new materials shall be utilized in constructing any structures situated upon a Lot, unless approved by the Committee.

3.36 Construction in Place All dwellings constructed on the Property shall be built in place on the Lot. No pre-constructed, prefabricated or existing building or structure may be moved onto any portion of the Property without the prior written approval of the Architectural Committee.

3.37 Construction Standards All construction must conform to plans and specifications approved in writing by the Architectural Committee. The criteria considered by the Architectural Committee may include, but shall not be limited to, whether the Plans and Specifications demonstrate that the improvement proposed would preserve the quality and atmosphere of the Property and not materially detract from the view or value of adjacent Lots. Once commenced, construction shall be diligently pursued to completion in order that improvements not be left in a partially finished condition any longer than is reasonably necessary.

3.38 Unfinished Improvements No Improvements shall remain unfinished for more than one (1) year after the same has been commenced, unless prior written approval from the Architectural Committee has been received.

3.39 Improvement Location: Minimum Yards Notwithstanding the general setback requirements set forth herein as to location of improvements upon any Lot, it is the intention of Decedent to establish the importance of locating such improvements in order to preserve existing natural trees, vegetation and topography to the greatest extent possible and practicable. The Architectural Committee shall be specifically empowered to require or grant variances with respect to such setback requirements in accordance with the review procedure set forth herein, so long as the resulting location of the Improvements will not encroach upon any other Lot, utility easement or public right-of-way. In connection therewith, minimum yard and setback requirements may be set by the Architectural Committee or Declarant in excess of those set forth above or those shown on any plat of the Subdivision through a Supplemental Declaration in order to maximize open areas, pedestrian, and vehicular movement, to preserve views from other Lots and to benefit the overall appearance of the Subdivision.

3.40 Setback Requirements No Building shall be located on any of the Lots nearer to the front lot line or nearer to the side street line than the minimum setback lines shown on the recorded plat of the Subdivision as it pertains to such Lot or Lots. In any event, no Building shall be located nearer than fifty (50) feet from the front line, or nearer than fifteen (15) feet from any side Lot line, or nearer than thirty (30) feet from any rear Lot line, on interior Lots and fifteen (15) feet on corner Lots along the street side. The Committee shall have the right to impose such additional setback requirements as it deems necessary to preserve lines of sight from neighboring properties and Lots. The Committee shall be entitled to review and

modify the setback requirements for cul-de-sac Lots and/or any other Lots designated at any time by Declarant for which compliance with the foregoing setback requirements might be difficult or impossible.

3.41 Rentals. Nothing in this Declaration shall prevent the rental of an entire Lot and the Improvements thereon by the Owner thereof for residential purposes, on either a short or long-term basis. In such event, both Owner and tenant shall be responsible for compliance with this Declaration and all Le Veaux Rules. No Lot, including Improvements on a Lot, may be leased to more than four (4) adults at any one time.

3.42 Construction Activities. Notwithstanding any provision herein to the contrary, this Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including Declarant) upon any Lot within the Property. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, or posting of signs or similar activities; provided, however, that such construction is to be pursued to completion with reasonable diligence. Any mud, rocks or other debris which are tracked onto the Private Roads and Street Side Rights-of-Way from a Lot where Improvements are under construction shall be immediately cleaned up by the responsible Owner. Any damage to the Private Roads caused by construction activities shall be repaired by the Owner responsible for such damage. In the event of any dispute regarding such matters, a temporary waiver of the applicable provisions may be granted by the Architectural Committee; provided, however, that such waiver shall be only for a reasonable period of such construction.

3.43 No Warranty of Enforceability. While Declarant has no reason to believe that any of the restrictive covenants or other terms and provisions contained in this Article III or elsewhere in this Declaration are or may be invalid or unenforceable for any reason to any extent, Declarant makes no warranty or representation as to the present or future validity or enforceability or lack of enforceability of any such restrictive covenants, terms or provisions. Any Owner acquiring a Lot in reliance on one or more of such restrictive covenants, terms or provisions shall assume all risks of the validity and enforceability thereof, and, by acquiring the Lot, agrees to hold Declarant harmless therefrom.

3.44 Identification of Lots. Each Owner shall post the street address number for each single-family residence located on a Lot in the manner and location approved by the Committee.

3.45 Fuel Tanks. No butane or fuel tank (other than small tanks used for outdoor cooking) or other structure or facility for the storage of combustible fuel shall be placed or maintained on any Lot unless expressly authorized in writing by the Committee. Declarant and Association may store fuel for the operation and management of the Property.

3.46 Prohibited Activities. No professional, commercial, or trade venture or activity shall be conducted on any of the Lots; provided, however, that model homes and/or sales offices may be constructed and maintained by the Declarant, its successors and assigns, or Builders, in connection with the development of and the construction and sale of houses and Lots in the Subdivision. Subject to the prior written consent of the Committee, home offices to which the general public is invited, incidental to an Owner's business, may be maintained within such Owner's residence so long as, in the sole and absolute discretion of the Committee, activities conducted in connection with such home offices do not become an annoyance or nuisance to the neighborhood.

3.47 Driveways and Garages. All driveways shall be constructed of concrete, asphalt, pavers or masonry and shall be subject to written approval by the Committee. All garages shall be physically attached to the residence. All garages shall have functional automatic garage door openers installed. Front entry garages are prohibited, unless the topography, front building width, or tree location on a particular lot

dictates that a front loaded or front-wing loaded garage be employed, in which case, the Architectural Committee shall be free to grant a variance to the Owner of such Lot allowing for the construction of a front-loaded or front wing loaded garage. In all such cases, front-wing loaded garages shall be preferable over front entry garages. Under no circumstances, however, shall a variance be granted to allow a garage door to face La Ventana Parkway.

3.48 **Window Materials.** All windows on all Improvements in the subdivision shall utilize only clear or lightly tinted, non-reflective glass.

3.49 **Hunting.** No hunting shall be permitted or firearms discharged on the Property.

3.50 **Septic Systems.** All septic tank and soil absorption sewage disposal systems shall be constructed in accordance with the minimum requirements of the division of Sanitary Engineering of the Texas State Department of Health in conformity with the restrictions outlined on the recorded plat of the Subdivision and the La Ventana Rules, and shall be inspected by a duly authorized agent of the Hays County Health Department, and, if required by the ordinances, by any pertinent and specifically applicable governmental or quasi-governmental entity. Written certification by the inspecting authority that the system complies with applicable requirements shall be presented to the Committee by the Owner of a Lot prior to occupancy of the premises.

3.51 **Mailbox.** Owner shall construct a mailbox on each Lot as determined by the Committee and in cooperation with the U.S. Postal Service and any other applicable regulatory authority.

3.52 **General Use Restrictions.** The Property (except for Commercial Lot 1) shall be improved and used solely for single-family residential use, for Common Area, and for other permitted uses. (See Article IV.) Common Area may, subject to the approval of Declarant or the Association, in their sole and absolute discretion, be improved or landscaped and used for active and passive recreational and entertainment purposes as well as any other authorized purpose. However, in no circumstances, may any improvements be constructed on that portion of the Front Fields which lies to the east of La Ventana Parkway. Declarant may, in his sole and absolute discretion, permit other Improvements and uses. Declarant has the right to dedicate Common Area and Sanitary easements in connection with any utility serving the Subdivision. Notwithstanding anything contained in this Declaration to the contrary, Declarant reserves the right to continue to use any Undeveloped Lot and maintain the use of any existing Improvements thereon as is currently being used, or otherwise.

3.53 **Building Height.** No Improvement greater than thirty-five (35) feet in height may be constructed on the Property or any Lot within the Property without the prior written approval of the Architectural Committee. For purposes of this paragraph, height shall be measured from the highest point of the foundation to the highest point of the ridge line of the roof of the proposed Improvement. Notwithstanding any provision herein to the contrary, Declarant may, but shall not be obligated to, establish separate and more restrictive height restrictions and requirements applicable to one or more Lots within the Property to preserve and maintain overall aesthetic appearances of the Subdivision and Improvements therein, and such height restrictions and requirements shall control over the height restrictions set forth in the body of this Declaration, provided the height restrictions to such Property or Lots is filed of record prior to or as part of the conveyance of the Property or Lots by Declarant.

3.54 **Equestrian Activity.** Owners of Equestrian Lots are allowed to board up to two (2) horses full time on each Equestrian Lot. A stable(s) must be constructed on an Equestrian Lot if horses are boarded thereon. The stable(s) shall conform to construction standards set forth by the Architectural Committee. Such stable(s) shall be located on an Equestrian Lot with the following setback requirements and site requirements:

(a) Each stable shall be constructed parallel to and six (6) feet from the Corral fence and shall be located at the center point of the rear Lot line of each Equestrian Lot. No part of a stable shall exceed a distance greater than thirty-six (36) feet from the Corral fence. Stables on Equestrian Lots which do not back up to the Central Corral must receive approval from the Committee before constructed.

(b) Each stable shall be a minimum of five hundred seventy-five (575) square feet but not larger than nine hundred (900) square feet with a height of not less than sixteen (16) feet or greater than twenty-two (22) feet from the stable floor to the highest point in the stable roof.

(c) Equestrian Lot Owners may park one (1) horse trailer next to each stable provided such parking space is covered.

(d) Each stable must be kept clean and neat at all times. Equestrian Lot Owners shall keep the stable area clean and free of debris through frequent clean up and regular removal of horse manure. Organic debris may be disposed of in the Compost Area. Equestrian Lot Owners shall control and minimize insects and flies resulting from Equestrian Activity.

3.55 Corral. Every Owner is allowed to use the Corral at designated times to ride, train, or graze horses. Horses which are not owned by an Owner are not allowed in the Corral. Overnight boarding of any horse in the Corral is limited to three (3) nights per week. Equestrian Lot Owners shall clean up after the horses on a frequent basis and remove horse manure from Equestrian Lots and the Corral and dispose of same in the Compost Area. Owners who use the Corral shall control and minimize insects and flies resulting from Equestrian Activity.

3.56 Designated Horse Riding Areas. Horses may be ridden only in the following authorized areas:

- (1) Perimeter Path
- (2) Front Field;
- (3) Undeveloped Lots (excluding Commercial Lot 1);
- (4) Designated horse right-of-ways and crossovers;
- (5) Corral; and
- (6) Equestrian Lots.

ARTICLE IV COMMERCIAL LOT 1

4.1 Commercial Lot 1. Commercial Lot 1 is hereby expressly exempt from the La Ventana Restrictions and La Ventana Rules. Declarant or any owner or lessee of all or part of Commercial Lot 1 is authorized to conduct commercial, agricultural, office, administrative, or any other legal activities, on Commercial Lot 1. In the event Declarant determines to re-plot any or all of Commercial Lot 1 into Lot(s), then this Declaration shall be amended and provide covenants, conditions and restrictions which would apply and pertain to such Lot(s), if any.

ARTICLE V
ARCHITECTURAL COMMITTEE

5.1 Membership of Architectural Committee.

(a) The Architectural Committee shall consist of not less than one (1) and not more than four (4) voting Members ("Voting Members"), and such additional non-voting Members serving in an advisory capacity ("Advisory Members") as Declarant, its successor or assigns deems appropriate.

(b) The Architectural Committee shall consider and is authorized to act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board. The Architectural Committee shall review Plans and Specifications submitted for its review and such other information as it may require relating to the provisions of this Declaration or to the question of whether any proposed improvement would unreasonably obstruct the view from other portions of the Property. The Architectural Committee shall have the authority to disapprove any proposed improvement based upon the restrictions set forth herein and the decision of the Architectural Committee shall be final and binding so long as it is not in conflict with these Restrictions and is made in good faith. The Architectural Committee may hire consultants, including engineers and architects, to assist it in its duties hereunder. The Architectural Committee, and its agents and employees, shall not be responsible for inspecting any proposed improvement, nor shall its approval of any Plans or Specifications be deemed approval of any improvement as to structural safety, engineering soundness or conformance with any building or other codes, regardless of the hiring by the Architectural Committee of any consultants to assist it in its duties hereunder.

5.2 Action by Architectural Committee. Items presented to the Architectural Committee shall be decided by majority vote of the Voting Members. The Architectural Committee's approval shall not be unreasonably withheld or delayed. If the Committee fails to respond in writing to a request for approval specifying its objections within thirty (30) business days from the date of its receipt by the Committee, such approval shall be deemed to have been given.

5.3 Advisory Members. The Voting Members may from time to time designate Advisory Members.

5.4 Term. Each member of the Architectural Committee shall hold office until such time as he or she has resigned or has been removed and his or her successor has been appointed as provided herein.

5.5 Declarant's Right of Appointment. Declarant, its successors or assigns, shall have the right to appoint and remove all members of the Architectural Committee. Declarant may delegate this right to the Board by written instrument. Thereafter, the Board shall have the right to appoint and remove all members of the Architectural Committee.

5.6 Adoption of Rules. The Architectural Committee may adopt such procedural and substantive rules, not in conflict with this declaration, as it may deem necessary or proper for the performance of its duties, including, but not limited to, a building code, a fire code, a housing code, and other similar codes as it may deem necessary and desirable. Each Owner shall comply with said rules as the same may be amended from time to time, and failure to comply with said rules shall constitute a default of this Declaration, and any Owner, including Declarant, at its sole expense and/or the Board may seek any of the remedies set forth herein for default of this Declaration.

5.7 Review of Construction, Alteration or Removal of Improvements.

(a) Whenever in this Declaration the approval of the Architectural Committee is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, are considered to be relevant. Except as otherwise specifically provided herein, prior to the commencement of any Improvement on the Property or any portion thereof, the Plans and Specifications therefor shall be submitted to the Architectural Committee, and such construction thereof may not commence until and until the Architectural Committee has approved such Plans and Specifications in writing. The Architectural Committee shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration, and perform such other duties assigned to it by this Declaration, or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress to assure its conformance with the Plans and Specifications approved by the Architectural Committee. The Architectural Committee may review Plans and Specifications submitted for its review and such other information as it deems proper, including any information it may require relating to the question whether any proposed Improvement upon a Lot would unreasonably obstruct the view from other portions of the Property. Until receipt by the Architectural Committee of any information or document deemed necessary by the Architectural Committee, it may postpone review of any Plans and Specifications submitted for approval. No Improvement shall be allowed upon any Lot which would unreasonably obstruct the view from any other portion of the Property, and no Improvement shall be allowed on any Lot which is of such size or architectural design or involves the use of such landscaping, color schemes, exterior finishes and materials and similar features so as to be incompatible with residential development within the Property. The Architectural Committee shall have the authority to disapprove any proposed Improvement based upon the restrictions set forth in the preceding sentence and the decision of the Architectural Committee shall not be binding, so long as it is made in good faith. The Architectural Committee shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof, with respect to structural safety, engineering soundness, or conformance with building or other codes.

(b) Any Plans and Specifications which are not acted upon within thirty (30) calendar days after they have been submitted to the Architectural Committee shall be deemed to have been approved by the Architectural Committee. This approval shall not apply to any situation in which the Architectural Committee notifies the submitting party that its submission is somehow incomplete or in cases where the Architectural Committee makes a request for additional information with respect to those Plans and Specifications.

(c) Any party requesting approval of a set of Plans and Specifications for use with a particular Lot shall submit a site plan showing the position of all improvements on the Lot, a tree survey, and brick, mortar and exterior trim colors or samples as a part of those Plans and Specifications. The party submitting such plans shall be required to point out to the Architectural Committee, and the Architectural Committee shall have the right to review and approve, any material changes to or deviations from any previously approved set of Plans and Specifications. The Architectural Committee shall have the right to prevent the construction of any improvements which have, in the Architectural Committee's sole opinion, material changes to or deviations from any previously approved set of Plans and Specifications.

(d) The Architectural Committee may grant variances from compliance with any of the provisions of this Declaration or any Supplemental Declaration, including, but not limited to, restrictions upon height, bulk, size, shape, floor area, lot area, placement of structures, set-backs, building envelopes, colors, materials, or land use, when in the opinion of the Architectural Committee, in its sole and absolute discretion, such variance will not impair or detract from the high quality development of the Property and such variance is justified due to unusual or aesthetic considerations, topographic or septic considerations,

or unusual circumstances. All variances must be evidenced in writing, in recordable form, and must be signed by at least a majority of the Voting Members of the Architectural Committee. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or of any Supplemental Declaration for any purpose except as to the particular Property and in the particular instance covered by the variance.

5.8 Nonconforming or Unapproved Developments. The Architectural Committee, at its option, may review all work in progress to ensure compliance with approved Plans and Specifications. The Architectural Committee may, with the prior approval of the Board, require any Owner, at Owner's sole expense, to restore such Owner's Lot to the condition existing prior to construction, alteration or removal of any improvement or landscaping thereon, including without limitation the demolition and removal of any unapproved or nonconforming improvement or landscaping, if such improvement or landscaping was constructed or altered in violation of this Declaration. In addition, the Architectural Committee may, with the prior approval of the Board, but has no obligation to, cause such restoration, demolition and removal of any such improvement or landscaping, and levy the amount of the cost thereof as a special individual assessment against the Lot upon which such unapproved or nonconforming improvement or landscaping was constructed or altered.

5.9 Actions of the Architectural Committee. The Architectural Committee may, by resolution, unanimously adopted in writing, designate one or two of its members or an agent acting on its behalf to take any action or perform any duties for and on behalf of the Architectural Committee. In the absence of such designation, the vote of a majority of the members of the Architectural Committee, taken with or without a meeting, shall constitute an act of the Architectural Committee.

5.10 No Waiver of Future Approvals. The approval or consent of the Architectural Committee to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the Architectural Committee shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatsoever, subsequently or additionally submitted for approval or consent by the same or a different person.

5.11 Guidelines for Building at La Ventana. The Architectural Committee may promulgate a set of guidelines not in conflict with this Declaration for building and developing in the Subdivision which shall be general in nature and may be amended from time to time by the Architectural Committee.

5.12 Work in Progress. The Architectural Committee, at its option, may inspect all work in progress to ensure compliance with approved Plans and Specifications.

5.13 Non-Liability of Architectural Committee and Declarant. Neither the Architectural Committee, nor any Member thereof, nor the Board, nor any Member thereof, nor the Declarant and its officers, directors and partners, shall be liable to the Association or to any Owner or any other person for any loss, damage, or injury arising out of their being in any way connected with the performance of the duties of the Architectural Committee, the Board or Declarant, respectively, under this Declaration, unless due to the willful misconduct of the Architectural Committee or its Members, the Board or its Members, or the Declarant or its officers, directors and partners, as the case may be. Neither the Architectural Committee, nor any Member thereof, nor the Board, nor any Member thereof, nor the Declarant and its officers, directors and partners, shall be liable to any Owner, or to any other Person, due to the construction of any Improvement within the Property or the

resultant obstruction of the view from such Owner's Lot or Lots, or any other result of such construction or improvement.

5.14 **Submission of Final Plans and Specifications.** The final Plans and Specifications shall be submitted in duplicate to the Architectural Committee in care of Lee P. Wood, 1301 Elder Hill Road, P. O. Box 250, Driftwood, Texas 78619, or such other address as may be designated from time to time by the Architectural Committee.

5.15 **Fee.** The Architectural Committee shall have the right to establish and collect a reasonable fee for each set of Plans and Specifications submitted for review. The initial fee shall be \$150.00 per submission. In addition, a fee may be charged to consider requests for variances, the amount of which shall be determined by the Architectural Committee.

ARTICLE VI THE ASSOCIATION

6.1 **Organization.** The Association is a Texas non-profit corporation created, or to be created, by Declarant for the purposes, and charged with the duties and vested with the powers, prescribed by law and as set forth in its Articles and Bylaws or in this Declaration. Neither the Articles nor Bylaw shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration; if an inconsistency exists, this Declaration shall control. The Articles and Bylaws are attached hereto as Exhibits "B" and "C" respectively, and are incorporated herein for all purposes as if set out in their entirety.

6.2 **Powers and Authority of the Association.** Subject to such limitation and restrictions as are set forth in this Declaration, the Articles and Bylaws, the Association shall have the powers of a Texas non-profit corporation, including, but not limited to, all powers provided under the provisions of the Texas Non-Profit Corporation Act, as amended from time to time, or any successor act or statute. It shall further have the power to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration.

6.3 **Indemnification.**

(a) **Indemnification.** To the fullest extent permitted by applicable law, as the same exist or as they may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits broader limitation than permitted prior to such amendment), a Director of the ROA shall not be liable to the ROA for monetary damages, or otherwise, for an act or omission in the Director's capacity as a Director. Any amendment of these Bylaws shall be prospective only and shall not adversely affect any limitation on the personal liability of a Director of the ROA existing at the time of such repeal or amendment. In addition, the ROA shall be entitled to indemnify its Directors, officers, employees and/or Members, the Subdivision Manager (and its constituent partners and their respective directors, officers, employees, shareholders and/or members) and others acting on the ROA's behalf, including, without limitation, members of the Architectural Committee or other similar committees and any third-party agents and contractors, to the fullest extent allowed by applicable law. The Association shall indemnify any Person who was or is a party, or is threatened to be made a party, to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he or she is or was a director, officer, Architectural Committee Member, or employee of the Association (the "Indemnified Party or Parties") against reasonable expenses to be paid directly and as actually and reasonably incurred (including attorney's fees, judgments, fines and amounts paid in settlement, including interest, costs and expenses) by the Indemnified Party in connection with such action, suit or proceeding if it is found and determined by the Board or a Court of Law that the Indemnified Party 1) acted in good faith and in a

manner the Indemnified Party reasonably believed to be in, or not opposed to, the best interests of the Association or 2) with respect to any criminal action or proceeding, had not reasonable cause to believe the Indemnified Party's conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *Nolo Contendere* or its equivalent, shall not of itself create a presumption that the Indemnified Party did not act in good faith or in a manner which the Indemnified Party reasonably believed to be in, or not opposed to, the best interests of the Association, or with respect to any criminal action or proceeding, had reasonable cause to believe that the Indemnified Party's conduct was unlawful.

Furthermore, without limiting the foregoing in any way, the Association does hereby agree to INDEMNIFY AND HOLD HARMLESS and does hereby INDEMNIFY AND HOLD HARMLESS the Indemnified Parties, jointly and severally, from any and all claims, debts, demands, liabilities, damages, defenses, counter-claims, cross-claims, third party actions, offsets, actions, judgments and causes of action, whether in contract, tort or equity, of whatever nature or character, both known and unknown, whether held or accrued in the past, present or to accrue in the future, including reasonable attorneys fees and expenses incurred, which may hereafter be asserted by any Person, firm, corporation or other entity, arising out of or in any way related to or connected with, directly or indirectly, any act or omission committed by the Indemnified Party in such Indemnified Party's official capacity as a director, officer, Architectural Committee Member, employee. This indemnity provision applies even if such claims, debts, demands, liabilities, damages, defenses, counter-claims, cross-claims, third party actions, offsets, actions, judgments and causes of action were caused in whole or in part by any obligation, act, omission, negligence, breach of contract, misconduct, violation of statutory or common law, breach of warranty, product defect, or conduct of any type by such Indemnified Parties.

(b) Not Covered Owner and Member Obligations. All liability, loss, damage, costs and expense incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as a general obligation of the Association; provided, however, that nothing contained in this Article VI shall be deemed to obligate the Association to indemnify any Member or Owner, who is not the Declarant, who is or has been director, officer, committee Member or non-compensated agent of the Association, with respect to any duties or obligations assumed or liabilities incurred by him or her under and by virtue of the restrictive covenants as a Member of the Association or Owner of a Lot covered thereby.

(c) Insurance. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any liability asserted against or incurred by him or her in any such capacity, or arising out of his or her status as such, whether or not the Association would have the power to indemnify him or her against such liability hereunder or otherwise.

ARTICLE VII ASSESSMENTS

7.1 Assessments. Assessments may be established by the Declarant up to one (1) year after recording of any final plat of the Subdivision, or by the Board of the Association upon the establishment of the Association, pursuant to the provisions of this Article VII and shall be levied on a uniform basis against each Lot within the Property, subject to the limitations and exceptions as contained herein. The amount of the Assessments shall be determined in accordance with the provisions of this Declaration.

Notwithstanding the foregoing, the Assessments provided for herein shall not, without the consent of the Declarant, apply to Lot(s) or Undeveloped Lot(s) owned by Declarant, as long as owned by Declarant;

however, upon any sale of such Lot(s) by Declarant, to a third party, then such Assessments thereafter shall thereupon be applicable to such Lot(s).

Each unpaid Assessment(s), together with such interest thereon and costs of collection thereof, as hereinafter provided, is the personal obligation of the Owner of the Lot(s) against which the Assessment(s) is due, and is secured by a continuing lien against the Lot(s) and all improvements thereon. The Association may enforce payment of such Assessment(s) in accordance with the provisions of this Article.

7.2 Funds. The Board shall establish one or more funds into which all monies paid to the Association shall be deposited and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association shall be used solely for purposes authorized by this Declaration, as it may from time to time be amended.

7.3 Regular Annual Assessment. Prior to the beginning of each fiscal year, the Board or the Declarant, initially, shall estimate the expenses to be incurred by the Association during such year in performing its functions under the Restrictions, including but not limited to, the cost of taxes, insurance, maintenance of roadways, rights-of-way, easements, median strips, sidewalks, paths and trails, the cost of maintaining, operating, lighting, watering, landscaping, providing underground utilities, and repairing all Common Area, and any improvements thereon, the cost of enforcing this Declaration, the cost of management of the Subdivision and any contractual obligations related to such management, the cost of providing a fund for contingencies and appropriate replacement reserves, less any expected income and any surplus from the prior year's fund. Assessments sufficient to pay such estimated net expenses shall then be levied as herein provided, and the level of the Assessment set by the Board or, initially, Declarant, shall be final and binding, so long as it is made in good faith. If the sums collected pursuant to such levy prove inadequate for any reason, including non-payment of any individual Assessments, the Association may, at any time and from time to time, levy further Assessments in the same manner as aforesaid. All such regular Assessments shall be due and payable to the Association at the beginning of the fiscal year or during the fiscal year in equal monthly installments, or in such other manner as the Board may designate in its sole and absolute discretion. Notwithstanding the foregoing, each Owner, excluding Declarant, shall pay an Assessment to the Association at the rate of Forty-nine Dollars (\$49.00) per calendar month per Lot, prorated, beginning on the first day following such Owner's acquisition of title to his Lot or Lots, which rate shall continue until changed by the Association as herein provided. At the closing of the acquisition of any Lot from the Declarant, any other developer (herein, or any Builder, the party acquiring such Lot shall pay a one-time processing fee of One Hundred Fifty Dollars (\$150.00). In no event shall the regular annual Assessment per Lot for year 2000 exceed the sum of Five Hundred Eighty-eight Dollars (\$588.00). Thereafter, the regular annual Assessment hereunder shall not be increased by more than ten percent (10%) above the maximum annual Assessment for the preceding calendar year without an affirmative vote of two-thirds (2/3's) of the Owners of the Association who are voting in person or by proxy, at a meeting duly called for such purposes.

7.4 Builders Assessment. Whenever any Lot is initially conveyed by Declarant to a Builder for the purpose of constructing a type home, the Builder shall pay the Association a Builders Assessment of Five Hundred Dollars (\$500.00) per Lot. Such Builders Assessment shall relieve the Builder from paying Regular Annual Assessments as described herein for a period of twelve (12) months from the date the Builder acquires the Lot. In the event the Builder continues to own such Lot after said twelve (12) month period, then the Builder shall be responsible for paying Regular Annual Assessments as set forth above. Builders shall remain responsible for the Assessments set forth in Section 7.3 and 7.6, below.

7.5 Assessment Reserving Specific Areas. The Association shall also have authority to levy Assessments against Lots located in specific local areas (e.g. Equestrian Lots) and improvements to be expended for the benefit of such Lots so assessed. The Assessments levied under this Section shall be levied

in proportion to the benefits conferred or to be conferred, as determined by the Board, and therefore the amount levied against each parcel of land or improvement need not be equal.

7.6 Special Assessments. In addition to the Regular Annual Assessments provided for above, the Declarant or the Board, as the case may be, may levy Special Assessments whenever in the Declarant's/Board's opinion such Special Assessments are necessary to enable the Declarant/Board to carry out the functions of the Association under the La Ventana Restrictions. The amount of any Special Assessments shall be at the reasonable discretion of the Declarant/Board. Notwithstanding the foregoing, any Special Assessment in excess of One Thousand Dollars (\$1,000.00) per calendar year per Lot shall be approved by the affirmative vote of two-third's (2/3's) of Owners who are voting at a meeting duly called for such purpose, who are entitled to vote in accordance with the Bylaws.

7.7 Owner's Personal Obligation for Payment of Assessments. All Assessments provided for herein shall be the personal and individual debt owing to the Association by the Owner of the Lot covered by such Assessment(s). In the event of joint ownership or ownership as tenants-in-common by more than one (1) Person of any Lot covered by such Assessments, such personal obligations shall be joint and several for each of said Owners. No Owner, except Declarant, may exempt himself/herself from liability for such Assessments, and in the event of default in the payment of any such Assessment, the Owner of the Lot shall be obligated to pay interest at a rate per annum equal to the highest rate allowed by applicable usury laws then in effect on the amount of the Assessment from the due date thereof (or if there is no such highest lawful rate, at the rate per annum of eighteen percent (18%)), together with all costs and expenses of collection, including reasonable attorney's fees and court costs.

7.8 Assessment Lien and Foreclosure.

(A) To the extent permitted by applicable Governmental Requirements, the payment of the Assessments levied in accordance with this Declaration against each Lot, together with interest thereon as provided in Section 7.7 above and the costs and expenses of collection, including reasonable attorneys' fees, as provided below, is secured by, and there is hereby reserved, created and granted, a continuing lien and charge on and against each Lot to secure payment of the Assessments levied against the subject Lot in accordance with this Declaration, and any interest thereon as provided in Section 7.7 above and the costs and expenses of collection, including reasonable attorneys' fees as provided below. Such lien or payment of Assessments shall attach with the priority above set forth from the date that the Lot is purchased by Owner, which lien shall be further evidenced by a Vendor's Lien reserved by the Declarant in the Deed from Declarant to each Owner and such Lien shall run with the land. The lien reserved, granted and created by this Declaration against a Lot for payment of Assessments shall bind and attach to the Lot and shall be valid and subsisting against the Lot, the Owner of such Lot and such Owner's heirs, devisees, personal representatives, successors or assigns, and shall be superior to all other liens and charges against such Lot, except only for (i) tax liens, and (ii) all sums unpaid on any obligations evidencing sums owing or borrowed for the purchase of such Lot and secured by a valid and enforceable first Mortgage lien or first deed of trust lien of record covering the subject Lot, provided that the lien of any such Mortgage shall be superior to the lien created above only with respect to Assessments becoming due after the date the subject Mortgage was recorded in the Official Public Records of Hays County, Texas. The Association shall have the power, in the Board's sole and absolute discretion, to subordinate the Lien created by this Section 7.8 against any Lot to any other lien. Any such subordination shall be signed by an officer of the Association and recorded in the Official Records of Hays County, Texas. Upon the written request of any Beneficiary holding a lien on any Lot that is superior to the lien for payment of Assessments as provided herein, the Association shall report to said Beneficiary the amount of any Assessments levied against such Lot remaining unpaid for a period of more than thirty (30) days after the same are due.

(b) To evidence the aforesaid lien for payment of Assessments, the Association may prepare a written notice of Assessment Lien setting forth the amount of the unpaid indebtedness, a description of the Lot encumbered by the lien and the name of the Owner of such Lot. Such notice shall be signed by one of the officers of the Association and shall be recorded in the Official Public Records of Hays County, Texas. The aforesaid lien for payment of Assessments shall attach with the priority set forth above from the date the payment of such Assessments becomes due. The Association may enforce such lien by the foreclosure sale of the delinquent Owner's Lot in like manner as a foreclosure of a mortgage or contractual lien on real property as provided in Section 51.002 of the Texas Property Code, as the same may be amended or modified, or the Association may institute suit against the Owner personally obligated to pay the Assessment for monetary damages and/or for the judicial foreclosure of the aforesaid lien. The Owner of the affected Lot shall be required to pay all costs and expenses, including without limitation reasonable attorneys' fees, incurred by the Association in connection with any foreclosure proceeding, whether judicial or non-judicial, and in connection with any collection proceeding the Association or Declarant shall have the power to bid on any Lot at any foreclosure or other legal sale and to acquire, hold, lease, mortgage, convey or otherwise deal with the same.

(c) The liens for payment of Assessments provided for herein shall not be affected or extinguished by the sale or transfer of any Lot, whether by judicial or non-judicial foreclosure sale or otherwise; provided, however, that in the event of foreclosure of lien of any Mortgage superior to the lien for the delinquent Assessment, the lien for the delinquent Assessment will be extinguished, and the delinquent Assessment shall be paid out of the proceeds of such foreclosure sale only to the extent that funds are available after the satisfaction of the first lien Mortgage. The extinguishing of any lien for payment of Assessments as herein provided will not relieve any Owner from the obligation to pay Assessments subsequently becoming due and payable or affect or impair the lien created and reserved under this Declaration to secure payment of any such Assessments.

ARTICLE VIII
COMMON AREAS AND EASEMENTS

8.1 Common Areas. No land within any Common Area shall be improved, used or occupied, except in such manner as shall have been approved by Declarant, or the Association, as applicable. The use of Common Areas is restricted to Owners, Owners' guests and prospective owners. Further, Declarant has certain agriculture lease rights for the Common Area. Any Owner may reserve, for a fee, the Common Area and Improvements thereon for their private use with the permission of the Association and in accordance with La Ventana Rules.

Declarant and any water utility company owned or controlled by Declarant, shall have the exclusive right to drill a water well or wells on any Common Area or unitary easement of record within the Subdivision to any depth and capture any quantity of water it deems necessary for the operation of its business (including the placement of surface equipment). This right is assignable by the foregoing entities and the Association shall acknowledge any such assignment when presented.

8.2 Recreational Improvements. Any proposed construction of recreational Improvements within a Common Area shall be subject to approval by the Architectural Committee.

8.3 Privacy Gate. The Association shall pay for all costs and expenses necessary to operate and maintain the private gated entrance located on La Ventana Parkway. Such gated entrance shall not be relied on by the Owners and others for the security of property and person. Notwithstanding anything to the contrary contained herein, the Association retains the right to charge Owners a fee or deposit for the issuance of or replacement of privacy gate remote access cards and/or units. Each Main House shall be wired to access and operate the remote functions of such privacy gate.

8.4 Utility Easements in Common Areas. Declarant reserves the right to locate, construct, own and operate, erect and maintain or cause to be located, constructed, owned and operated, erected and maintained in and on any areas conveyed to the Association or reserved as Common Areas water, sewer and other pipelines, water wells, surface equipment, water tanks, conduits, wires and any public utility function beneath or above the surface of the ground, and with the right of access to the same at any time for the purpose of construction, drilling, operation, repair and maintenance. In connection herewith the rights granted herein are in addition to those rights granted in Section 8.1, herein. Such rights are transferable by Declarant.

8.5 Reserved Easements. All dedications, limitations, restrictions and reservations shown on the Plat and all grants and dedications of easements, rights-of-way, restrictions and related rights made by Declarant for all purposes as if fully set forth herein, and shall be constructed as being adopted in each and every contract, deed or conveyance executed or to be executed by or on behalf of Declarant conveying any part of the Property. Declarant reserves the right to make changes in and additions to the said easements and rights-of-way for the purpose of most efficiently and economically developing the property. Further, Declarant reserves the right, without the necessity of the joinder of any Owner or other person or entity, to grant, dedicate, reserve or otherwise create, at any time or from time to time, rights-of-way and easements for public utility purposes (including, without limitation, gas, water, cable television, electricity, telephone, sewer and drainage), in favor of any person or entity, along and on either or both sides of any Lot line, which said easement shall have a maximum width of seven and one-half (7.5) feet on each side of such Lot line. See Plat for easements particular to any Lot.

8.6 **Installation and Maintenance of Public Utilities.** Declarant reserves, creates, grants and dedicates (without warranty) for Declarant and any and all public utility companies providing any public utilities to all or any portion of the Subdivision a perpetual, non-exclusive easement upon, across, over and under all portions of the Property designated on the Plat as public utility easements (the "PUE Tracts") for ingress and egress and for constructing, installing, replacing, repairing, operating, and maintaining all utility and service lines and service systems, public and private which are necessary as to provide public utilities to the Subdivision, including, but not limited to, telephone, cable television, gas, electric power, water distribution and wastewater collection, together with all lines, pipes, cables, conduits and other equipment, facilities, improvements and appurtenances installed in, under, along and across the PUE Tracts. By virtue of this easement, it shall be expressly permissible for Declarant and the public utility providers and companies supplying or providing public utility services to the Subdivision to install and maintain pipes, wires, conduits, service lines or other utility equipment, facilities, improvements or appurtenances thereto, on, above, across and under the PUE Tracts. Notwithstanding any provision contained in this section, no electrical lines, water lines or other utilities or appurtenances thereto may be relocated on the Property until approved by Declarant or the Architectural Committee. Subject to compliance with applicable Governmental Requirements, the public utility providers and companies furnishing public utility services to the Subdivision shall have the right to remove all trees and fences situated within the PUE Tracts, and to trim overhanging trees and shrubs located on portions of the Property abutting the PUE Tracts. The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers. Neither the Declarant nor any supplier of any utility service using any easement area, however, shall be liable to any Owner or to the Association for any damage done by them or either of them, or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area. Declarant reserves the right to make changes in and additions to said easements and rights-of-way for the purpose of most efficiently and economically developing the Property.

8.7 **Title to Easement and Appurtenances Not Conveyed.** Title to any Lot conveyed by Declarant by contract, deed or other conveyance shall not be held or construed in any event to include the title to any roadways or Common Area or any drainage, water, gas, sewer, storm sewer, electrical light, electrical power, telegraph or telephone way, or any pipes, lines, poles or conduits on or in any utility facility or appurtenances thereto, constructed by or under Declarant or its agents through, along or upon any Lot or any part thereof to serve said Lot or any other portion of the Property, and the right to maintain, repair, sell, convey or lease such appurtenances to any municipality or other governmental agency or to any public service corporation or to any other party is hereby expressly reserved in Declarant. All Common Area shall be owned by the Association, unless further conveyed in accordance with this Declaration.

8.8 **Drainage Easements and Patterns.** Except for (i) alterations, changes, and/or interference in connection with or resulting from Development by Declarant and (ii) alterations, changes and/or interference by an Owner on the Owner's Lot which do not affect drainage patterns on, or the flow of surface water over, any other Lot or any other portion of the Property, there shall be no alteration of, change in, or interference with the established drainage patterns over any Lot or other portion of the Property unless adequate provision is made for proper drainage in a manner approved by the Owner of each Lot affected by the subject alteration, change or interference and by the Association. Each Owner further covenants not to disturb or displace any trees or other vegetation within the drainage easements as defined in this Declaration and/or shown on the Plat without the prior written approval of the Association. There shall be no construction of improvements, temporary or permanent, in any drainage easement except as may be approved in writing by the Association. Easements for installation and maintenance of utilities and/or drainage easements are reserved and dedicated as are shown on the Plat. Within these easement areas, no improvements, landscaping, or other materials shall be placed or permitted to remain which may damage or interfere with the installation, maintenance and/or operation of these utilities and/or drainage easements and/or which may

hinder or change the direction or flow of surface water within the Property and/or along the existing drainage patterns, channels or slopes within the Property.

8.9 Entry Easement. Declarant reserves, creates, grants and dedicates (without warranty) for the Association and Declarant a non-exclusive easement upon, over and across each Lot for ingress and egress for any and all of the purposes stated in this Declaration and to exercise, enjoy and carry out any and all of the rights and powers granted herein, on and subject to the terms and conditions of this Declaration. Entry upon any Lot as provided in this Section 8.9 shall not be deemed to trespass, and the Association and Declarant shall not be liable for any damage so created unless damage is caused by the willful misconduct or gross negligence of the party against whom damages are sought to be collected.

8.10 Maintenance of Surface Area of Easements. Each Owner shall maintain the surface area of all easements located within his or her Lot and all improvements located therein except for (a) such improvements for which a public authority or utility company is responsible and (b) all detention ponds and water quality easement areas (with the Association being responsible for maintenance of all detention pond facilities and water quality easement areas). The surface of easement areas for underground utility services may be used for planting of shrubbery, trees, lawns or flowers, or any other improvement authorized by the Committee. Trees with extremely large root systems shall not be planted directly over utility lines. However, neither Declarant nor any supplier of any utility or service using any easement area shall be liable to any Owner or to the Association for any damage done by them or either of them or their respective agents, employees, servants or assigns, to any of the aforesaid vegetation as a result of any activity relating to the construction, maintenance, operation or repair of any facility in any such easement area.

8.11 Temporary Construction Easement. Declarant reserves, creates, grants and dedicates (without warranty) for the benefit of Declarant and any Person building or constructing any improvements on any Lot, and their respective employees, subcontractors, successors and assigns, a non-exclusive easement of ingress and egress over, along, within and upon the front side and rear yards of each Lot, any and all Common Area and any and all easements located within the Subdivision as may be expeditiously necessary for the construction, servicing, and completion of improvements and landscaping upon any Lot, any and all Common Area and any and all easements located within the Subdivision.

8.12 Owners' Easements of Enjoyment. Each and every Owner shall have a non-exclusive right and easement in and to the Common Area and a non-exclusive right and easement of ingress and egress to, from and through the Common Area, which non-exclusive rights and easements shall be appurtenant to and shall pass with title to each and every Lot, subject to the following provisions:

(a) the right of the Association to establish and publish rules and regulations governing the use of the Common Area affecting the health, safety and welfare of Owners and authorized guests, as well as good stewardship of the Common Area and its improvements;

(b) the right of the Association to suspend the right of use of the Common Area and the voting rights of any Owner for any period during which any Assessment against the subject Owner's Lot remains unpaid beyond the period in which such Assessment is due and for any period during which the Owner is in violation of this Declaration and/or any La Vistas Rules;

(c) the right of the Association, subject to the provisions of this Declaration or any of the Restrictions, to dedicate or transfer all or any part of the Common Area, if any, to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by a majority of the votes of the Owners as any vote of the Owners has been recorded according to such dedication or transfer;

Roads in any manner which is prohibited by or which would violate a Governmental Requirement or any Rules. Additionally, no Private Roads User may in any way or manner remove, alter, damage or destroy any portion of the Private Roads. The Association shall have the power and authority to promulgate rules regarding the use and enjoyment of the Private Roads by the Private Roads Users and shall have the power and authority to enforce such rules regarding the use and enjoyment of the Private Roads. Subject to the terms and provisions of this Declaration and to the Rules promulgated by the Association with respect to the use and enjoyment of the Private Roads, all Private Road Users shall have access to the Private Roads and shall have ingress and egress to the Private Roads for the purposes provided above. Declarant reserves for itself and the Association (and the respective employees, agents, contractors, and representatives of Declarant and the Association) an easement on, over, across and under the Private Roads for the purpose of constructing, installing, maintaining, repairing, and replacing any Private roads and maintaining, policing and protecting the Private Roads. No Owner or other Private Roads User shall be permitted to place any improvements on any portion of the Private Roads. Neither Declarant nor the Association shall be liable for any damage done by either them or their assigns, agents, employees, contractors or servants to any landscaping, improvements or other property of any Owner or Person in connection with the construction, installation, repair, maintenance, replacement, policing and protecting of the Private Roads. Declarant will convey the Private Roads to the Association as part of the Common Areas, subject to the conditions, covenants, restrictions, easements, terms and conditions of this Declaration and to any and all easements, restrictions, and other encumbrances of record in the Official Public Records of Hays County, Texas, to the extent in force and effect and binding on the Private Roads.

8.17 **Maintenance, Operation and Repair of Private Roads.** Following substantial completion and conveyance to the Association by Declarant of the Private Roads, the utilities and improvements required to be constructed in connection with the approval of the Plat by Governmental Authority, and the other Common Area and Facilities, the Association (a) shall be solely and exclusively responsible for the maintenance, repair, replacement management, operation and condition of the Private Roads, (b) shall at all times maintain, repair and replace the Private Roads in good repair and order, (c) shall manage, operate and oversee the Private Roads in a manner complying with the provisions of this Declaration, all applicable Rules, and Governmental Requirements which may be imposed at any time, from time to time, by any Governmental Authority, and (d) is and shall be authorized to promulgate and adopt Rules concerning the use, enjoyment, operation, management, maintenance, repair, replacement and improvement of the Private Roads, subject to the terms and conditions of this Declaration. The Association may establish a Private Roads maintenance reserve fund as deemed necessary by the Board.

ARTICLE IX CENTRAL PROPANE GAS SYSTEM

9.1 **Gas System.** The Southern Union Gas Company ("SUG") and Declarant have entered into that certain Propane System Installation Agreement ("Propane Agreement") dated July 2, 1999 (including any amendments thereto) to provide propane gas from a centrally installed propane gas system (the "Gas System") to at least the Lots initially developed by Declarant. Declarant believes that as a whole, it is economic and convenient to use gas and that the economic feasibility of the construction and operation of the Gas System requires that all dwellings constructed within the Property use propane gas for space heating, water heating, and cooking. The Declarant may participate in profits, if any, with SUG.

9.2 **Propane Use Requirement.** All Main Houses must install or use only gas-fired water heaters and furnaces ("Propane Appliances"). Additionally, all Builders and Owners shall install gas hook-ups for ranges that are installed in all Main Houses. Such gas plumbing shall meet the specifications required by applicable building codes and all other applicable governmental requirements for natural gas and propane at the time of installation. All Propane Appliances installed in new homes on the Property shall be installed in accordance with the requirements of the Gas Services Division of the Texas Railroad Commission and all

other applicable governmental requirements and regulations. Upon the purchase of each Lot, each Owner shall pay to SUG a fee in accordance with the Propane Agreement ("System Fee").

9.3 Waiver of Propane Use Requirement. Any Owner of any Lot located on the Property shall be released from the propane use requirements designated above upon payment to the in the amount as specified in the Propane Agreement (Propane Use Requirement Waiver Fee). Such Propane Use Requirement Waiver Fee is in addition to the System Fee described in Section 9.2.

9.4 Community Pool. Any heated pool constructed on the Property for community use must be constructed with and use Gas Appliances to heat the pool's water.

9.5 Gas Tanks. No above ground propane gas tank may be maintained on the Property except (i) the central propane storage tank to be maintained by SUG pursuant to the Propane Agreement and (ii) outdoor barbecue grill portable propane tanks.

ARTICLE X MISCELLANEOUS

10.1 Power of Declarant. Notwithstanding anything in this Declaration to the contrary, so long as Declarant owns any Lot and/or Undeveloped Lot, each Owner, by acceptance of record title conveying a Lot to such Owner, does hereby irrevocably constitute and appoint Declarant, its true and lawful attorney-in-fact and agent to execute, acknowledge, verify, swear to, deliver, record and file in that Owner's name, Place and seal all instruments, documents and certificates which may from time to time be required in order to effect any amendment, correction, vacating, replating or other modification of the Plat, provided that (i) the boundaries and contours of such Owner's Lot are not in any way changed, altered or modified; (ii) access to such Owner's Lot from a public street or from Private Roads is not changed or altered in any material respect; (iii) the public utility services to such Owner's Lot are not materially and adversely altered; and (iv) no costs or expenses are imposed on such Owner. In furtherance of this appointment, each Owner agrees to join in the execution, upon request of Declarant, of any instrument required to acknowledge such authorization and/or effect any such amendment, vacating, replating or other modification of the Plat.

10.2 Term. This Declaration, including all of the covenants, conditions, and restrictions hereof, shall continue in force and effect until December 31, 2025, unless amended as herein provided. After December 31, 2025, this Declaration, including all such covenants, conditions and restrictions, shall be automatically extended for successive periods of ten (10) years each, unless extinguished by a written instrument executed by Owners entitled to cast at least eighty percent (80%) of the number of votes entitled to be cast pursuant to the Bylaws (Exhibit "C" attached hereto). Any and all rights granted to Declarant or any utility provider shall continue in effect after the extinguishment of this Declaration.

10.3 Amendment.

(a) By Declarant. This Declaration may be amended by Declarant acting alone until such time as Declarant has conveyed by deed four hundred (400) Lots; thereafter, Declarant shall be entitled to amend this Declaration only with the written approval of a majority of the Class A Votes, described in the Bylaws (Exhibit "C" attached hereto). No amendment by Declarant shall be effective until there has been recorded in the Real Property Records of Hays County, Texas, an instrument executed and acknowledged by Declarant and setting forth the Amendment. An amendment made by Declarant pursuant to this Section 10.3 shall not adversely affect the value of the Lots and shall maintain the quality of the Subdivision. No Amendment may place additional restrictions on a Lot already sold or remove variances previously granted without the express written consent of the Owner of the affected Lot.

(d) the right of the Association to borrow money from any Person for the purpose of improving the Common Area and, in furtherance thereof, mortgage the Common Area, and in accordance with the Articles and Bylaws;

(e) the right of the Association to contract for services or use of Common Area with Declarant or third parties, directly or indirectly, on such terms as the Association may determine; and

(f) all of the rights of the easements granted and provided under this Section 8.12 are easements appurtenant to and running with each Lot; and any such easement shall at all times inure to the benefit of and be binding upon Declarant, each Owner and all their respective grantees, heirs, successors, personal representatives or assigns, perpetually and in full force.

8.13 Title to Common Area. All Common Area shall be dedicated and conveyed to the Association, which shall thereafter be responsible for its operation and maintenance. The Common Area shall be conveyed to and accepted by the Association on or before the completion of all construction with respect thereto or at such other times and from time to time as the Declarant may determine to be appropriate. Declarant reserves the right to amend the boundaries of all Common Area in accordance with Paragraph 10.1 herein. Further, in the event additional land is added to the Subdivision in accordance with Paragraph 2.2 herein, Declarant shall, in fact, amend the boundaries of the Common Areas in order to accommodate such addition.

8.14 Damages. Each Owner and each lease of any Owner shall be liable to the Association for any damage to Association Property which may be sustained by reason of the negligent or intentional misconduct of such person or of his family, guests or invitees. If the property, the ownership or leasing of which entitles the member or lease thereof to use Association property, is owned or leased jointly or in common, all of such joint or common owners or lessees shall be jointly and severally liable hereunder. The amount of such damage may be assessed against such person's or entity's real and personal property on or within the Property, including the leasehold property on or within the Property, including the leasehold estate of any lessee or the lesser of such leases, and may be collected as provided herein for the collection of Assessments.

8.15 Damage and Destruction. In case of destruction of or damage to Association Property by fire or casualty, the available insurance proceeds, if any, shall be paid to the Association, which shall contract to repair or rebuild the Association Property so damaged. Should insurance proceeds be insufficient to pay all of the costs of repairing or rebuilding the damaged property, the Association may levy a special assessment to recover any deficiency. If the Board determines not to rebuild any property so destroyed or damaged, or to build facilities substantially different from those which were destroyed or damaged, it shall call a special meeting of the Members to consider such decision. If the Members of the Association, by seventy-five percent (75%) of the votes cast at such meeting, elect to ratify such decision, the Board shall act accordingly, but if the Members do not by such percentage elect to ratify such decision, the Board shall proceed to repair or rebuild the damaged facility with payment therefor to be made as set forth in this Section. Owners should be aware of the risk that flood insurance for certain improvements in the Common Area may not be obtainable and the costs associated with such possible loss.

8.16 The Private Roads. Declarant reserves for itself, the Association, each Owner, and the respective employee, agents, representatives, guests, contractors, and other invitees of the Association and the Owners (hereinafter collectively called the "Private Roads Users" and individually called a "Private Roads User") the right of access to the Private Roads, and a nonexclusive easement on, over, across and with respect to the Private Roads for the use and enjoyment of the Private roads for vehicular and pedestrian access to the Lots, the other Common Areas, and the remainder of the Property. Notwithstanding anything in this Declaration to the contrary, in no event shall any Private Roads User be permitted to use or enjoy the Private

(b) By Owners. After Declarant has conveyed by deed four hundred (400) Lots, this Declaration may be amended by recording in the Hays County, Texas Real Property Records an instrument executed and acknowledged by the President and Secretary of the Association, setting forth the Amendment and certifying that such Amendment has been approved by Owners entitled to cast at least eighty percent (80%) of the number of votes entitled to be cast pursuant to the Bylaws (Exhibit "C" hereto).

10.4 Notice. Any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3rd) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the person at the address given by such person to the Association for the purposes of service of notices, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing given by such person to the Association.

10.5 Interpretation. The provisions of this Declaration shall be liberally construed to effectuate the purposes of creating a uniform plan for the improvement and operation of the Subdivision and of promoting an effectuating the fundamental concepts of the Subdivision set forth in this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas.

10.6 Exemption of Declarant. Notwithstanding any provision in this Declaration to the contrary, neither Declarant nor any of Declarant's activities shall in any way be subject to the control of or under the jurisdiction of the Architectural Committee. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of Declarant to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property; provided, however, the construction of sales and leasing offices and the posting of signs advertising the sale and leasing of Lots by Declarant shall be limited to Lots, other Property owned by Declarant and Common Area.

10.7 Assignment by Declarant. Notwithstanding any provision in this Declaration to the contrary, Declarant may assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person or entity and may permit the participation, in whole or in part, by any other person or entity in any of its privileges, exemptions, rights and duties hereunder.

10.8 Enforcement and Non-Waiver.

(a) Right of Enforcement. Except as otherwise provided herein, any Owner at his own expense, or the Committee, the Board, or Declarant, at the expense of the Association, shall have the right to enforce all of the provisions of this Declaration. Such right of enforcement shall include both damages for, and injunctive relief against, the breach or threatened breach of any such provision.

(b) Non-Waiver. The failure to enforce any provision of this Declaration at any time shall not constitute a waiver of the right hereafter to enforce any such provision or any other provision of said Declaration.

(c) Lien. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot or improvement constructed thereon in order to enforce any right or effect compliance in this Declaration.

10.9 Construction.

(a) Restrictions Severable. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision or portion thereof.

(b) Singular Includes Plural. Unless the context requires contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.


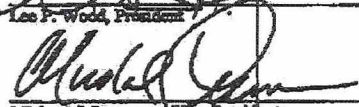
(c) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles hereof.

(d) No Oral Representations. This Declaration shall govern and supercede any and all oral/verbal representations made concerning the matters contained herein.

26 IN WITNESS WHEREOF, Declarant has executed this Declaration as of this
day of Sept. 2002.

DECLARANT:
LA VENTANA DRIFTWOOD, L.P.
A Texas Limited Partnership

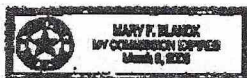
By: FOURSTAR RESIDENTIAL RANCHES, L.L.C., its general partner


Lee F. Wood, President

Michael J. Lovenson, Vice President


STATE OF TEXAS)

COUNTY OF HAYS)

This instrument was acknowledged before me this 26 day of
Sept. 2002, by Lee F. Wood and Michael J. Lovenson, President and Vice
President of FourStar Residential Ranches, L.L.C., a Texas Limited Liability Corporation,
General Partner of La Ventana Driftwood, L.P., a Texas Limited Partnership, on behalf of said
partnership.



Notary's Printed Name, Seal and
Commission Expiration Date


Notary Public, in and for
The State of Texas



COURTESY NOTICE

June 20, 2024

Jakob Skelton & Stephanie Chang
914 Ranchers Club Ln
Driftwood TX 78619

Re: La Ventana Ranch Owners Association, Inc.
Property: 914 Ranchers Club Ln
Violation: Animals & Pets - Boarding or Breeding
Location: On Property

Dear Jakob Skelton & Stephanie Chang

As the managing agent for La Ventana Ranch Owners Association, Inc., Goodwin & Company is responsible for the administration of the Association's governing documents and rules and regulations. The Association is committed to maintaining your neighborhood in a manner that is both aesthetically pleasing and protective of property values.

The purpose of this letter is to bring to your attention that it has been observed or reported that a situation of non-compliance needs your attention:

Please discontinue breeding or boarding animals at your residence. You are only allowed up to six ducks.

Please note that continued non-compliance will result in the next fine being assessed at \$50.00.

We are sure that you would want to know about the above situation, and we request your assistance in correcting the above issue. To assist us in our efforts to preserve the overall appearance of the community, we respectfully ask your timely cooperation.

Thank you in advance for your help in preserving the integrity of La Ventana Ranch Owners Association, Inc.. If you have any questions concerning this notice please contact the inspector by email at Compliance@goodwintx.com or phone at (512) 502-2115.

Sincerely,
Goodwin & Company
Agent for La Ventana Ranch Owners Association, Inc.

Courtesy Notice

If the violation described herein is deemed to be curable under Section 209.006 of the Texas Property Code and this is the first notice you have received for this type of violation in the past 6 months, you must cure this violation in a reasonable amount of time which, for purposes of this notice, is deemed to be 12 days from the date of this letter which is 7/2/2024, in order to avoid any fines. If the violation described herein is deemed to be curable under Section 209.006 of the Texas Property Code and this is a subsequent notice you have received for this type of violation in the past 6 months, you may be liable for fines. If the violation described herein is deemed to be uncurable under Section 209.006 of the Texas Property Code, regardless of whether the violation is the first or a subsequent violation in the past 6 months, you may be liable for fines.

If a fine has been assessed, it is noted in this letter. You may request a hearing before the Board to discuss and verify facts and resolve the matter in issue. Your written request for a hearing must be submitted on or before the 30th day after the date the notice was mailed to the homeowner. Any such hearing will take place within 30 days following the date your request is received by the Board. In the event an attorney is retained to enforce compliance or the collection of any money due to the association, you will be responsible for the payment of attorney's fees and/or costs of collection after the expiration of 30 days of the date you receive this letter if no hearing has been requested, or immediately after any such hearing provided the Board does not waive the fine(s). Owners may have special rights or relief related to the violation under federal law, including the Service Members Civil Relief Act (50 USC app. Section 501 et seq) if a homeowner is on active military duty. Please notify us immediately if you are a Service Member.

EXHIBIT

C



CAGLE PUGH

Attorneys & Counselors

Adam Pugh
e-mail: adam.pugh@caglepugh.com

www.caglepugh.com

July 1, 2024

Jakob Skelton
914 Ranchers Club Lane
Driftwood, Texas 78619

Via First-Class & CMRRR:
9314 8699 0430 0123 0404 13
Via Email: skeltonjakob@gmail.com

Stephanie Skelton
914 Ranchers Club Lane
Driftwood, Texas 78619

Via First-Class & CMRRR:
9314 8699 0430 0123 040 37

RE: La Ventana Ranch Owners Association, Inc. (the "*Association*")
914 Ranchers Club Lane, Driftwood, Texas 78640 (the "*Property*")

Dear Mr. And Ms. Skelton:

Our firm represents the Association. We are in receipt of your June 24, 2024 e-mail regarding your request for a reasonable accommodation. After receiving proof of approximately twenty ducks on the Property, the Association informed you that this number of ducks was above the number of animals allowed on the Property, and that fowl are not permitted within the Association. You have requested that you be allowed an exception or change to the prohibition against the animals on the Property, as indicated in Section 3.28 of the Declaration, because you believe the ducks are necessary emotional support animals. Furthermore, Section 3.28 of the Declaration prohibits poultry and fowl. As indicated therein, one of the primary purposes of this restriction is to minimize noise and protect the health and safety of the La Ventana Ranch Community.

The Association will need additional information regarding your non-observable disability and whether the ducks provide therapeutic emotional support with respect to your specific disability. We would encourage you to review the "Guidance on Documenting an Individual's Need for Assistance Animals in Housing" available from the Department of Housing and Urban Development as to what should be provided. The Association does not have sufficient information to show you have a disability, or that ducks are an appropriate treatment for the same, at this time.

Additionally, the Association is requesting that you provide information showing a relationship or connection between the disability and the need for the ducks. Specifically, since ducks are not commonly kept in households, you have the substantial burden of demonstrating a disability-related therapeutic need for the specific type of animal requested. In this instance, the

Austin: 4301 Westbank Drive, Building A, Suite 150, Austin, TX 78746
Dallas: 4600 Greenville Ave., Ste. 220, Dallas, TX 75206
Houston: 2500 Wilcrest, Ste. 300, Houston, TX 77042
San Antonio: 18756 Stone Oak Parkway, Suite 200, San Antonio, TX 78258

(T) 737-261-0600 | (F) 737-261-0637
(T) 469-676-4020 | (F) 737-261-0637
(T) 281-404-3520 | (F) 737-261-0637
(T) 726-222-9240 | (F) 737-261-0637

Association is requesting that you provide documentation showing why twenty ducks, instead of another type of animal that is allowed in the Association, are required for your specific disability. Additionally, it is important that you provide information showing why your specific disability requires such a large amount of ducks.

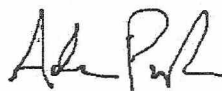
At this time, the Association cannot grant you the exception and accommodation that you are seeking. As soon as you provide the requested information, the review will proceed, and the Association will endeavor to provide you with a response within ten (10) days of you providing all of the information requested.

Additionally, we are in receipt of your request regarding the vehicle violation but are unsure whether you are requesting an accommodation. If you could please clarify what you are requesting in regard to the vehicle violation, we would appreciate it so that we can prepare an appropriate response.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact our office at (737) 261-0600.

Sincerely,

CAGLE PUGH

A handwritten signature in black ink, appearing to read 'Adam Pugh', with a stylized flourish at the end.

Adam Pugh

EXHIBIT

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June 25, 2024

To Whom It May Concern:

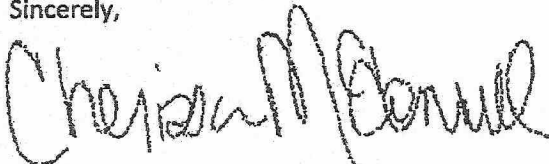
Re: Emotional Support Animal Accommodations

Stephanie Skelton is currently my client and being treated for Post Traumatic Stress Disorder (ICD 10: F43.1) and other reactions to severe stress (ICD 10: F43.8). I am intimately familiar with her history and with the functional limitations imposed on her by this disability. She meets the definition of disability under the Americans with Disabilities Act, The Fair Housing Act and the Rehabilitation Act of 1973.

Due to her diagnosis, Stephanie has certain limitations regarding coping with stress and anxiety. In order to help alleviate these difficulties I am stating that her emotional support animals assist Stephanie in coping successfully with daily life activities. Stephanie, and her family, have developed a strong bond with her ducks for the past fifteen months.

I am familiar with the voluminous professional literature concerning the therapeutic benefits of assistance animals for people with disabilities such as that experienced by Stephanie. Upon request, I will share citations to relevant studies, and would be happy to answer other questions you may have concerning my recommendation that Stephanie be able to keep her support animals. Should you have additional questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Cherissa R. McConnell". The signature is fluid and cursive, with the first name "Cherissa" being more prominent than the last name "McConnell".

Cherissa R. McConnell, MSW, LCSW

License #59413

AssuraSource Behavioral Management

940-255-3044

EXHIBIT

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